

## LEGISLATIVE BILL 247

Approved by the Governor May 31, 2007

Introduced by Johnson, 37

FOR AN ACT relating to public health and welfare; to amend sections 43-102, 43-104, 43-104.01, 43-104.02, 43-104.03, 43-104.04, 43-104.05, 43-104.08, 43-104.09, 43-104.12, 43-104.13, 43-104.14, 43-104.17, 43-104.22, 43-105, 43-106, 43-906, 43-1411, 71-193.15, 71-193.17, 71-1,186, 71-1,187, 71-1,195.01, 71-1,195.02, 71-1,195.03, 71-1,195.04, 71-1,195.05, 71-1,195.06, 71-1,195.07, 71-1,195.08, 71-1,195.09, 71-1,296, 71-1,307, 71-1,308, 71-1,315, 71-1,316, 71-1,333, 71-1,335, 71-1,336, 71-1,337, 71-1,338, 71-2421, 71-4702, 71-4707, 71-8402, and 81-651, Reissue Revised Statutes of Nebraska, sections 28-401, 28-405, 28-412, 71-101, 71-1,147.35, 71-1913.01, 71-5403, and 71-7438, Revised Statutes Cumulative Supplement, 2006, section 71-1,135.02, Reissue Revised Statutes of Nebraska, as amended by section 23, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, section 341, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, and section 885, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,147, Reissue Revised Statutes of Nebraska, as amended by section 30, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, and section 963, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,186, Reissue Revised Statutes of Nebraska, as amended by section 27, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 188, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,195.09, Reissue Revised Statutes of Nebraska, as amended by section 37, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 211, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,200, Reissue Revised Statutes of Nebraska, as amended by section 130, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 1, Legislative Bill 152, One Hundredth Legislature, First Session, 2007; section 71-4702, Reissue Revised Statutes of Nebraska, as amended by section 52, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 573, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-4707, Reissue Revised Statutes of Nebraska, as amended by section 576, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-101, Revised Statutes Cumulative Supplement, 2006, as amended by section 296, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 481, One Hundredth Legislature, First Session, 2007, and section 23, Legislative Bill 247, One Hundredth Legislature, First Session, 2007; section 71-102, Revised Statutes Cumulative Supplement, 2006, as amended by section 297, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, section 21, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 2, Legislative Bill 236, One Hundredth Legislature, First Session, 2007; section 71-104.01, Revised Statutes Cumulative Supplement, 2006, as amended by section 31, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 2, Legislative Bill 481, One Hundredth Legislature, First Session, 2007; sections 125, 187, 191, 192, 193, 720, 886, 887, 897, and 932, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; and sections 8, 12, 32, 35, 36, and 42, Legislative Bill 236, One Hundredth Legislature, First Session, 2007; to change and eliminate provisions relating to controlled substances, treatment of narcotic-dependent persons, adoption procedures, consent for adoption, the biological father registry, claims for paternity, petitions for custody, children born out of wedlock, notice and hearing, relinquishment of parental rights, dental hygienists, drug utilization review, audiology, speech-language pathology, mental health practice, immunization requirements for child care programs, return of dispensed drugs and devices, hearing aid instrument dispensers and fitters, drug product

selection, wholesale drug distributors, credentialing of health care professionals, optometry, perfusion, pharmacy technicians, and in-home personal services; to define and redefine terms; to require insurance coverage of colorectal cancer screenings; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal sections 71-1,186.01 and 71-1,192, Reissue Revised Statutes of Nebraska; section 71-1,190.01, Reissue Revised Statutes of Nebraska, as amended by section 356, Legislative Bill 296, One Hundredth Legislature, First Session, 2007; sections 71-1,135.03, 71-1,135.05, and 71-1,147.34, Reissue Revised Statutes of Nebraska, as amended by sections 888, 873, and 987, respectively, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; sections 71-1,195.03, 71-1,315, 71-1,316, 71-1,333, and 71-1,338, Reissue Revised Statutes of Nebraska, as amended by sections 31, 43, 44, 45, and 49, respectively, Legislative Bill 247, One Hundredth Legislature, First Session, 2007; section 71-1,147.33, Revised Statutes Cumulative Supplement, 2006, as amended by section 349, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, and section 986, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; and section 15, Legislative Bill 236, One Hundredth Legislature, First Session, 2007; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-401, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-401 As used in the Uniform Controlled Substances Act, unless the context otherwise requires:

(1) Administer shall mean to directly apply a controlled substance by injection, inhalation, ingestion, or any other means to the body of a patient or research subject;

(2) Agent shall mean an authorized person who acts on behalf of or at the direction of another person but shall not include a common or contract carrier, public warehouse keeper, or employee of a carrier or warehouse keeper;

(3) Administration shall mean the Drug Enforcement Administration, United States Department of Justice;

(4) Controlled substance shall mean a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2003, and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance shall mean a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(6) Department shall mean the Department of Health and Human Services Regulation and Licensure;

(7) Division of Drug Control shall mean the personnel of the Nebraska State Patrol who are assigned to enforce the Uniform Controlled Substances Act;

(8) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery;

(9) Distribute shall mean to deliver other than by administering or dispensing a controlled substance;

(10) Prescribe shall mean to issue a medical order;

(11) Drug shall mean (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision, but shall not include devices or their components, parts, or

accessories;

(12) Deliver or delivery shall mean the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(13) Marijuana shall mean all parts of the plant of the genus *cannabis*, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but shall not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, or the sterilized seed of such plant which is incapable of germination. When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;

(14) Manufacture shall mean the production, preparation, propagation, ~~compounding~~, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of the substance or labeling or relabeling of its container. Manufacture shall not include the preparation or compounding of a controlled substance by an individual for his or her own use, except for the preparation or compounding of components or ingredients used for or intended to be used for the manufacture of methamphetamine, or the preparation, compounding, conversion, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing, administering, or dispensing of a controlled substance in the course of his or her professional practice; or (b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

(15) Narcotic drug shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision, except that the words narcotic drug as used in the Uniform Controlled Substances Act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(16) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate shall not include the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts. Opiate shall include its racemic and levorotatory forms;

(17) Opium poppy shall mean the plant of the species *Papaver somniferum* L., except the seeds thereof;

(18) Poppy straw shall mean all parts, except the seeds, of the opium poppy after mowing;

(19) Person shall mean any corporation, association, partnership, limited liability company, or one or more individuals;

(20) Practitioner shall mean a physician, a physician assistant, a dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a certified nurse midwife, a certified registered nurse anesthetist, a nurse practitioner, a scientific investigator, a pharmacy, a hospital, or any other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state, including an emergency medical service as defined in section 71-5175;

(21) Production shall include the manufacture, planting, cultivation, or harvesting of a controlled substance;

(22) Immediate precursor shall mean a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture;

(23) State shall mean the State of Nebraska;

(24) Ultimate user shall mean a person who lawfully possesses a controlled substance for his or her own use, for the use of a member of his or her household, or for administration to an animal owned by him or her or by a member of his or her household;

(25) Hospital shall have the same meaning as in section 71-419;

(26) Cooperating individual shall mean any person, other than a commissioned law enforcement officer, who acts on behalf of, at the request of, or as agent for a law enforcement agency for the purpose of gathering or obtaining evidence of offenses punishable under the Uniform Controlled Substances Act;

(27) Hashish or concentrated cannabis shall mean: (a) The separated resin, whether crude or purified, obtained from a plant of the genus cannabis; or (b) any material, preparation, mixture, compound, or other substance which contains ten percent or more by weight of tetrahydrocannabinols;

(28) Exceptionally hazardous drug shall mean (a) a narcotic drug, (b) thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h) methamphetamine;

(29) Imitation controlled substance shall mean a substance which is not a controlled substance but which, by way of express or implied representations and consideration of other relevant factors including those specified in section 28-445, would lead a reasonable person to believe the substance is a controlled substance. A placebo or registered investigational drug manufactured, distributed, possessed, or delivered in the ordinary course of practice or research by a health care professional shall not be deemed to be an imitation controlled substance;

(30) (a) Controlled substance analogue shall mean a substance (i) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (ii) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of the Uniform Controlled Substances Act; and

(b) Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2003, (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2003, to the extent conduct with respect to such substance is pursuant to such exemption;

(31) Anabolic steroid shall mean any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids), that promotes muscle growth and includes any controlled substance in Schedule III(d) of section 28-405. Anabolic steroid shall not include any anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and has been approved by the Secretary of Health and Human Services for such administration, but if any person prescribes, dispenses, or distributes such a steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision;

(32) Chart order shall mean an order for a controlled substance issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412. Chart order shall not include a prescription;

(33) Medical order shall mean a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(34) Prescription shall mean an order for a controlled substance issued by a practitioner. Prescription shall not include a chart order;

(35) Registrant shall mean any person who has a controlled substances registration issued by the state or the administration;

(36) Reverse distributor shall mean a person whose primary function is to act as an agent for a pharmacy, wholesaler, manufacturer, or other entity by receiving, inventorying, and managing the disposition of outdated, expired, or otherwise nonsaleable controlled substances;

(37) Signature shall mean the name, word, or mark of a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611 or an electronic signature;

(38) Facsimile shall mean a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and reconstructs the signals to create an exact duplicate of the original document at the receiving end;

(39) Electronic signature shall have the definition found in section 86-621; and

(40) Electronic transmission shall mean transmission of information in electronic form. Electronic transmission may include computer-to-computer transmission or computer-to-facsimile transmission.

Sec. 2. Section 28-405, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-405 The following are the schedules of controlled substances referred to in the Uniform Controlled Substances Act:

Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol, except levo-alphacetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Difenoxyin;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxadine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacetylmorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proheptazine;
- (40) Properidine;
- (41) Propiram;
- (42) Racemoramide;
- (43) Trimeperidine;
- (44) Alpha-methylfentanyl,  
propionanilide,  
N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl)  
1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;
- (45) Tilidine;
- (46) 3-Methylfentanyl,  
N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its optical

and geometric isomers, salts, and salts of isomers;

(47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical isomers, salts, and salts of isomers;

(48) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine), its optical isomers, salts, and salts of isomers;

(49) Acetyl-alpha-methylfentanyl (N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-phenylacetamide), its optical isomers, salts, and salts of isomers;

(50) Alpha-methylthiofentanyl (N-(1-methyl-2-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide), its optical isomers, salts, and salts of isomers;

(51) Benzylfentanyl (N-(1-benzyl-4-piperidyl)-N-phenylpropanamide), its optical isomers, salts, and salts of isomers;

(52) Beta-hydroxyfentanyl (N-(1-(2-hydroxy-2-phenethyl)-4-piperidinyl)-N-phenylpropanamide), its optical isomers, salts, and salts of isomers;

(53) Beta-hydroxy-3-methylfentanyl (other name: N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide), its optical and geometric isomers, salts, and salts of isomers;

(54) 3-methylthiofentanyl (N-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide), its optical and geometric isomers, salts, and salts of isomers;

(55) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers;

(56) Thiofentanyl (N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidinyl)-propanamide), its optical isomers, salts, and salts of isomers; and

(57) Para-fluorofentanyl (N-(4-fluorophenyl)-N-(1-(2-phenethyl)-4-piperidinyl)propanamide), its optical isomers, salts, and salts of isomers.

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine, except hydrochloride salt;
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine; and
- (23) Thebacon.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and, for purposes of this subdivision only, isomer shall include the optical, position, and geometric isomers:

(1) Bufotenine. Trade and other names shall include, but are not limited to: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; and mappine;

(2) Diethyltryptamine. Trade and other names shall include, but are not limited to: N,N-diethyltryptamine; and DET;

(3) Dimethyltryptamine. Trade and other names shall include, but are not limited to: DMT;

(4) 4-bromo-2,5-dimethoxyamphetamine. Trade and other

names shall include, but are not limited to: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; and 4-bromo-2,5-DMA;

(5) 4-methoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methoxy-a-methyl-phenethylamine; and paramethoxyamphetamine, PMA;

(6) 4-methyl-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM; and STP;

(7) 5-methoxy-N-N, dimethyltryptamine;

(8) Ibogaine. Trade and other names shall include, but are not limited to: 7-ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; and tabernanthe iboga;

(9) Lysergic acid diethylamide;

(10) Marijuana;

(11) Mescaline;

(12) Peyote. Peyote shall mean all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant or its seeds or extracts;

(13) Psilocybin;

(14) Psilocyn;

(15) Tetrahydrocannabinols, including, but not limited to, synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration; Delta 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures shall be included regardless of the numerical designation of atomic positions covered;

(16) 3,4-methylenedioxy amphetamine;

(17) 5-methoxy-3,4-methylenedioxy amphetamine;

(18) 3,4,5-trimethoxy amphetamine;

(19) N-ethyl-3-piperidyl benzilate;

(20) N-methyl-3-piperidyl benzilate;

(21) Thiophene analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TCP; and TCP;

(22) 2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 2,5-dimethoxy-a-methylphenethylamine; and 2,5-DMA;

(23) Hashish or concentrated cannabis;

(24) Parahexyl. Trade and other names shall include, but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo(b,d)pyran; and synhexyl;

(25) Ethylamine analog of phencyclidine. Trade and other names shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE;

(26) Pyrrolidine analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP;

(27) 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional, and geometric isomers, salts, and salts of isomers;

(28) 4-bromo-2,5-dimethoxyphenethylamine. Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B; and Nexus;

(29) Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(30) 2,5-dimethoxy-4-ethylamphet-amine; and DOET;

(31) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine; and TCPy;

(32) Alpha-methyltryptamine, which is also known as AMT; and

(33) 5-Methoxy-N, N-diisopropyltryptamine, which is also known as 5-MeO-DIPT.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers

whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone;
- (2) Methaqualone; and
- (3) Gamma-hydroxybutyric acid. Some other names include: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; and sodium oxybutyrate.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Fenethylamine;
- (2) N-ethylamphetamine;
- (3) Aminorex; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; and 4,5-dihydro-5-phenyl-2-oxazolamine;
- (4) Cathinone; 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrine;
- (5) Methcathinone, its salts, optical isomers, and salts of optical isomers. Some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropionophenone; methylcathinone; monomethylpropionophedrine; N-methylcathinone; AL-464; AL-422; AL-463; and UR1432;
- (6) (+/-)cis-4-methylaminorex; and (+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine; and
- (7) N,N-dimethylamphetamine; N,N-alpha-trimethyl-benzeneethanamine; and N,N-alpha-trimethylphenethylamine.

(f) Any controlled substance analogue to the extent intended for human consumption.

#### Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, buprenorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone and their salts, but including the following:

- (i) Raw opium;
- (ii) Opium extracts;
- (iii) Opium fluid;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Etorphine hydrochloride;
- (x) Hydrocodone;
- (xi) Hydromorphone;
- (xii) Metopon;
- (xiii) Morphine;
- (xiv) Oxycodone;
- (xv) Oxymorphone;
- (xvi) Thebaine; and
- (xvii) Dihydroetorphine;

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivision (1) of this subdivision, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, including cocaine and its salts, optical isomers, and salts of optical isomers, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine; and

(5) Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(b) Unless specifically excepted or unless in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of their isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical

designation, dextrorphan excepted:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Diphenoxylate;
- (5) Fentanyl;
- (6) Isomethadone;
- (7) Levomethorphan;
- (8) Levorphanol;
- (9) Metazocine;
- (10) Methadone;
- (11) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (12) Moramide-intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- (13) Pethidine or meperidine;
- (14) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (15) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (16) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (17) Phenazocine;
- (18) Piminodine;
- (19) Racemethorphan;
- (20) Racemorphan;
- (21) Dihydrocodeine;
- (22) Bulk propoxyphene in nondosage forms;
- (23) Sufentanil;
- (24) Alfentanil;
- (25) Levo-alpha-acetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;
- (26) Carfentanil; and
- (27) Remifentanil.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Phenmetrazine and its salts;

(3) Methamphetamine, its salts, isomers, and salts of its isomers;

and

(4) Methylphenidate.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designations:

(1) Amobarbital;

(2) Secobarbital;

(3) Pentobarbital;

(4) Phencyclidine; and

(5) Glutethimide.

(e) Hallucinogenic substances known as:

(1) Nabilone. Another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one.

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Trade and other names shall include, but are not limited to: Phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone; or

(2) Immediate precursors to phencyclidine, PCP:

(i) 1-phenylcyclohexylamine; or

(ii) 1-piperidinocyclohexanecarbonitrile, PCC.

#### Schedule III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of

isomers is possible within the specific chemical designation:

- (1) Benzphetamine;
- (2) Chlorphentermine;
- (3) Clortermine; and
- (4) Phendimetrazine.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules of this section;

- (2) Chlorhexadol;
- (3) Lysergic acid;
- (4) Lysergic acid amide;
- (5) Methyprylon;
- (6) Sulfondiethylmethane;
- (7) Sulfonethylmethane;
- (8) Sulfonmethane;
- (9) Nalorphine;

(10) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(11) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(12) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on July 20, 2002;

(13) Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone; and

(14) Tiletamine and zolazepam or any salt thereof. Trade or other names for a tiletamine-zolazepam combination product shall include, but are not limited to: telazol. Trade or other names for tiletamine shall include, but are not limited to: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam shall include, but are not limited to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e)(1,4)-diazepin-7(1H)-one, and flupyrzapon.

(c) Unless specifically excepted or unless listed in another schedule:

(1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(i) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(ii) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(iii) Not more than three hundred milligrams of dihydrocodeinone which is also known as hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(iv) Not more than three hundred milligrams of dihydrocodeinone which is also known as hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(v) Not more than one and eight-tenths grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vi) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vii) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(viii) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic

ingredients in recognized therapeutic amounts; and

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drug or its salts, as set forth below:

(i) Buprenorphine.

(d) Any Unless contained on the administration's list of exempt anabolic steroids as the list existed on the operative date of this section, any anabolic steroid, which shall include any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

- (1) Boldenone;
- (2) Chlorotestosterone (4-chlortestosterone);
- (3) Clostebol;
- (4) Dehydrochlormethyltestosterone;
- (5) Dihydrotestosterone (4-dihydrotestosterone);
- (6) Drostanolone;
- (7) Ethylestrenol;
- (8) Fluoxymesterone;
- (9) Formebolone (formebolone);
- (10) Mesterolone;
- (11) Methandienone;
- (12) Methandranone;
- (13) Methandriol;
- (14) Methandrostenolone;
- (15) Methenolone;
- (16) Methyltestosterone;
- (17) Mibolerone;
- (18) Nandrolone;
- (19) Norethandrolone;
- (20) Oxandrolone;
- (21) Oxymesterone;
- (22) Oxymetholone;
- (23) Stanolone;
- (24) Stanozolol;
- (25) Testolactone;
- (26) Testosterone;
- (27) Trenbolone; and

(28) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision if the salt, ester, or isomer promotes muscle growth.

(e) Hallucinogenic substances known as:

(1) Dronabinol, synthetic, in sesame oil and encapsulated in a soft gelatin capsule in a Food and Drug Administration approved drug product. Some other names for dronabinol are (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo (b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol.

#### Schedule IV

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clindinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens);
- (5) Clonazepam;
- (6) Clorazepate;
- (7) Diazepam;
- (8) Ethchlorvynol;
- (9) Ethinamate;
- (10) Flurazepam;
- (11) Mebutamate;
- (12) Meprobamate;
- (13) Methohexital;
- (14) Methylphenobarbital;
- (15) Oxazepam;
- (16) Paraldehyde;
- (17) Petrichloral;
- (18) Phenobarbital;
- (19) Prazepam;

- (20) Alprazolam;
- (21) Bromazepam;
- (22) Camazepam;
- (23) Clobazam;
- (24) Clotiazepam;
- (25) Cloxazolam;
- (26) Delorazepam;
- (27) Estazolam;
- (28) Ethyl loflazepate;
- (29) Fludiazepam;
- (30) Flunitrazepam;
- (31) Halazepam;
- (32) Haloxazolam;
- (33) Ketazolam;
- (34) Loprazolam;
- (35) Lorazepam;
- (36) Lormetazepam;
- (37) Medazepam;
- (38) Nimetazepam;
- (39) Nitrazepam;
- (40) Nordiazepam;
- (41) Oxazolam;
- (42) Pinazepam;
- (43) Temazepam;
- (44) Tetrazepam;
- (45) Triazolam;
- (46) Midazolam;
- (47) Quazepam;
- (48) Zolpidem;
- (49) Dichloralphenazone; and
- (50) Zaleplon.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, whether optical, position, or geometric, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline, including organometallic complexes and chelates thereof;
- (4) Mazindol;
- (5) Pipradrol;
- (6) SPA, ((-)-1-dimethylamino- 1,2-diphenylethane);
- (7) Cathine. Another name for cathine is ((+)-norpseudoephedrine);
- (8) Fencamfamin;
- (9) Fenproporex;
- (10) Mefenorex;
- (11) Modafinil; and
- (12) Sibutramine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following narcotic drugs, or their salts or isomers calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Propoxyphene in manufactured dosage forms; and
- (2) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts: Pentazocine.

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, and salts of such isomers: Butorphanol.

- (g)(1) Unless specifically excepted or unless listed in another

schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, optical isomers, and salts of such optical isomers: Ephedrine.

(2) The following drug products containing ephedrine, its salts, optical isomers, and salts of such optical isomers are excepted from subdivision (g)(1) of Schedule IV if they may lawfully be sold over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act, as the act existed on September 1, 2001; are labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph; are manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse; and are not marketed, advertised, or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance, or increased muscle mass:

- (A) Primatene Tablets;
- (B) Bronkaid Dual Action Caplets; and
- (C) Pazo Hemorrhoidal Ointment.

(3) Food and dietary supplements described in 21 U.S.C. 321, as such section existed on September 1, 2001, containing ephedrine, including its salts, optical isomers, and salts of such optical isomers, are excepted from subdivision (g)(1) of Schedule IV if:

(A) They are labeled in a manner consistent with section 28-448 and bear the statements: "This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.";

(B) Any dosage form of the food or dietary supplements (i) does not contain any hydrochloride or sulfate salts of ephedrine alkaloids, (ii) does not contain more than twenty-five milligrams of ephedrine alkaloids, and (iii) does not contain ephedrine alkaloids in excess of five percent of the total capsule weight;

(C) They are not marketed, advertised, or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance, or increased muscle mass; and

(D) Analysis of the product is provided to the department to ensure that the product meets the requirements of subdivision (g)(3)(B) of Schedule IV.

#### Schedule V

(a) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts calculated as the free anhydrous base or alkaloid, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams; and

(6) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(b) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

Sec. 3. Section 28-412, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-412 (1) It is unlawful to prescribe any narcotic drug listed in section 28-405, except buprenorphine, for the purpose of detoxification treatment or maintenance treatment except as provided in this section.

(2) A narcotic drug may be administered or dispensed to a narcotic-dependent person for detoxification treatment or maintenance treatment by a practitioner who is registered to provide detoxification treatment or maintenance treatment pursuant to section 28-406.

(3) A narcotic drug may be administered or dispensed to a narcotic-dependent person when necessary to relieve acute withdrawal symptoms pending the referral of such person for detoxification treatment

or maintenance treatment by a physician who is not registered to provide detoxification treatment or maintenance treatment under section 28-406. Not more than one day's supply of narcotic drugs shall be administered or dispensed for such person's use at one time. Such treatment shall not be continued for more than three successive calendar days and may not be renewed or extended.

(4) A narcotic drug may be administered or dispensed in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment conditions other than dependence.

(5) Any person who violates this section is guilty of a Class IV felony.

(6) For purposes of this section:

(a) Detoxification treatment means the administering or dispensing of a narcotic drug in decreasing doses to a person for a specified period of time to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and to bring such person to a narcotic drug-free state within such period of time. Detoxification treatment includes short-term detoxification treatment and long-term detoxification treatment;

(b) Long-term detoxification treatment means detoxification treatment for a period of more than thirty days but not more than one hundred eighty days;

(c) Maintenance treatment means the administering or dispensing of a narcotic drug in the treatment of a narcotic-dependent person for a period of more than twenty-one days; and

(d) Short-term detoxification treatment means detoxification treatment for a period of not more than thirty days.

Sec. 4. Section 43-102, Reissue Revised Statutes of Nebraska, is amended to read:

43-102 Except as otherwise provided in the Nebraska Indian Child Welfare Act, any person or persons desiring to adopt a minor child or an adult child shall file a petition for adoption signed and sworn to by the person or persons desiring to adopt. The consent or consents required by sections 43-104 and 43-105 or section 43-104.07, the documents required by section 43-104.07 or the documents required by sections 43-104.08 to 43-104.24 and section 18 of this act, and a completed preplacement adoptive home study if required by section 43-107 shall be filed prior to the hearing required in section 43-103.

The county court of the county in which the person or persons desiring to adopt ~~the~~ a child reside has jurisdiction of adoption proceedings, except that if a separate juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such separate juvenile court has concurrent jurisdiction with the county court in such adoption proceeding. If a child to be adopted is a ward of any court or a ward of the state at the time of placement and at the time of filing an adoption petition, the person or persons desiring to adopt shall not be required to be residents of Nebraska. The petition and all other court filings for an adoption proceeding shall be filed with the clerk of the county court. The party shall state in the petition whether such party requests that the proceeding be heard by the county court or, in cases in which a separate juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such separate juvenile court. Such proceeding is considered a county court proceeding even if heard by a separate juvenile court judge and an order of the separate juvenile court in such adoption proceeding has the force and effect of a county court order. The testimony in an adoption proceeding heard before a separate juvenile court judge shall be preserved as in any other separate juvenile court proceeding. The clerks of the district courts shall transfer all adoption petitions and other adoption filings which were filed with such clerks prior to August 28, 1999, to the clerk of the county court where the separate juvenile court which heard the proceeding is situated. The clerk of such county court shall file and docket such petitions and other filings.

Except as set out in subdivisions (1)(b)(ii), (iii), (iv), and (v) of section 43-107, an adoption decree shall not be issued until at least six months after an adoptive home study has been completed by the department or a licensed child placement agency.

Sec. 5. Section 43-104, Reissue Revised Statutes of Nebraska, is amended to read:

43-104 (1) Except as otherwise provided in this section and in the Nebraska Indian Child Welfare Act, no adoption shall be decreed unless written consents thereto are filed in the county court of the county in which the person or persons desiring to adopt reside or in the county court in which the separate juvenile court having jurisdiction over the custody of the child

is located and the written consents are executed by ~~(1)~~ (a) the minor child, if over fourteen years of age, or the adult child, ~~(2)~~ (b) any district court, county court, or separate juvenile court in the State of Nebraska having jurisdiction of the custody of a minor child by virtue of proceedings had in any district court, county court, or separate juvenile court in the State of Nebraska or by virtue of the Uniform Child Custody Jurisdiction and Enforcement Act, and ~~(3)~~ (c) both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, the mother of a child born out of wedlock, or both the mother and father of a child born out of wedlock as determined pursuant to sections 43-104.08 to 43-104.24 and section 18 of this act. On and after April 20, 2002, a written consent or relinquishment for adoption under this section shall not be valid unless signed at least forty-eight hours after the birth of the child. ~~except that consent~~

(2) Consent shall not be required of any parent who (a) has relinquished the child for adoption by a written instrument, (b) has abandoned the child for at least six months next preceding the filing of the adoption petition, (c) has been deprived of his or her parental rights to such child by the order of any court of competent jurisdiction, or (d) is incapable of consenting. On and after April 20, 2002, a written consent or relinquishment for adoption under this section shall not be valid unless signed at least forty-eight hours after the birth of the child.

(3) Consent shall not be required of a putative father who has failed to timely file (a) a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02 and, with respect to the absence of such filing, a certificate has been filed pursuant to section 43-104.04 or (b) a petition pursuant to section 43-104.05 for the adjudication of such notice and a determination of whether his consent to the adoption is required and the mother of the child has timely executed a valid relinquishment and consent to the adoption pursuant to such section.

(4) Consent shall not be required of an adjudicated or putative father who is not required to consent to the adoption pursuant to section 43-104.22.

Sec. 6. Section 43-104.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.01 (1) The Department of Health and Human Services Finance and Support shall establish a biological father registry. The department shall maintain such registry and which shall record the names and addresses of (a) any person adjudicated by a court of this state or by a court of another state or territory of the United States to be the biological father of a child born out of wedlock if a certified copy of the court order is filed with the registry by such person or any other person, (b) any person putative father who has filed with the registry, prior to notification the receipt of notice under sections 43-104.12 to 43-104.16, a paternity claim for notification purposes for Request for Notification of Intended Adoption with respect to such child, and (c) any person putative father who has filed with the registry a notice of intent to claim paternity and obtain custody of Notice of Objection to Adoption and Intent to Obtain Custody with respect to such child. ~~and (d) any person adjudicated by a court of another state or territory of the United States to be the father of such child, if a certified copy of the court order has been filed with the registry by that person or any other person.~~

(2) A paternity claim for notification purposes or a notice of intent to claim paternity and obtain custody Request for Notification of Intended Adoption or a Notice of Objection to Adoption and Intent to Obtain Custody filed with the registry shall include (a) the claimant's putative father's name, and address, and social security number, (b) the name and last-known address of the mother, and (c) the month and year of the birth or the expected birth of the child, (d) the case name, court name, and location of any Nebraska court having jurisdiction over the custody of the child, and (e) a statement by the putative father that he acknowledges liability for contribution to the support and education of the child after birth and for contribution to the pregnancy-related medical expenses of the mother of the child. The person filing the notice shall notify the registry of any change of address pursuant to procedures prescribed by in rules and regulations of the department.

(3) A request or notice filed under this section or section 43-104.02 shall be admissible in any action for paternity and shall estop the putative father from denying paternity of such child thereafter.

(4) Any person filing putative father who files a paternity claim for notification purposes or a notice of intent to claim paternity and obtain custody Request for Notification of Intended Adoption or a Notice of Objection

to Adoption and Intent to Obtain Custody with the biological father registry may revoke such notice, and upon filing. Upon receipt of such revocation by the registry, the effect shall be as if no filing had ever been made.

~~(4)~~ (5) The department shall not divulge the names and addresses of persons listed with the biological father registry to any other person except as authorized by law or upon order of a court of competent jurisdiction for good cause shown.

~~(5)~~ (6) The department may develop information about the registry and may distribute such information, through ~~their~~ its existing publications, to the news media and the public. The department may provide information about the registry to the Department of Correctional Services, ~~the Department of Health and Human Services,~~ and the Department of Health and Human Services Regulation and Licensure, ~~who~~ which may distribute such information through ~~their~~ its existing publications.

(7) A person who has been adjudicated by a Nebraska court of competent jurisdiction to be the biological father of a child born out of wedlock who is the subject of a proposed adoption shall not be construed to be a putative father for purposes of sections 43-104.01 to 43-104.05 and shall not be subject to the provisions of such sections as applied to such fathers. Whether such person's consent is required for the proposed adoption shall be determined by the Nebraska court having jurisdiction over the custody of the child pursuant to section 43-104.22, as part of proceedings required under section 43-104 to obtain the court's consent to such adoption.

Sec. 7. Section 43-104.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.02 As provided in section 43-104.01, a person claiming to be the father of the child and who intends to claim paternity and obtain custody of the child shall file with the biological father registry maintained by the Department of Health and Human Services Finance and Support on forms provided by the department, A Notice of Objection to Adoption and Intent to Obtain Custody shall be filed with the biological father registry under section 43-104.01 on forms provided by the Department of Health and Human Services (1) within five business days after the birth of the child, or (2) if notice is provided after the birth of the child (a) within five business days after receipt of the notice provided under section 43-104.12 contemplated in section 43-104.12, or (b) within five business days after the last date of any published notice provided pursuant to under section 43-104.14, whichever notice is later, a notice of intent to claim paternity and obtain custody, earlier. Such notice shall include the social security number of the person claiming to be the father. A notice of intent to claim paternity and obtain custody of the child shall be considered to have been filed if it is received by the Department of Health and Human Services Finance and Support department or postmarked prior to the end of the fifth business day contemplated as provided in this section.

Sec. 8. Section 43-104.03, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.03 Within three days after the filing of a paternity claim for notification purposes or a notice of intent to claim paternity and obtain custody Request for Notification of Intended Adoption or a Notice of Objection to Adoption and Intent to Obtain Custody with the biological father registry pursuant to sections 43-104.01 and 43-104.02, the ~~Director of Finance and Support~~ Department of Health and Human Services shall cause a certified copy of such request or notice to be mailed by certified mail to (1) the mother or prospective mother of such child at the last-known address shown on the request or notice or ~~(2)~~ an agent specifically designated in writing by the mother or prospective mother to receive such request or notice and (2) any Nebraska court identified by the putative father under section 43-104.01 as having jurisdiction over the custody of the child. The notice shall be admissible in any action for paternity, shall estop the claimant from denying paternity of such child thereafter, and shall contain language that the claimant acknowledges liability for contribution to the support and education of the child after birth and for contribution to the pregnancy-related medical expenses of the mother.

Sec. 9. Section 43-104.04, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.04 If a notice of intent to claim paternity and obtain custody Notice of Objection to Adoption and Intent to Obtain Custody is not timely filed with the biological father registry pursuant to section 43-104.02, the mother of a child born out of wedlock or an agent specifically designated in writing by the mother may request, and the Department of Health and Human Services Finance and Support shall supply, a certificate that no such notice of intent to claim paternity and obtain custody has been filed

with the biological father registry. ~~The and the~~ filing of such certificate pursuant to section 43-102 shall eliminate the need or necessity of a consent or relinquishment for adoption by the ~~natural~~ putative father of such child.

Sec. 10. Section 43-104.05, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.05 (1) ~~If a notice of intent to claim paternity and obtain custody~~ Notice of Objection to Adoption and Intent to Obtain Custody is timely filed with the biological father registry pursuant to section 43-104.02, either the ~~claimant-father,~~ putative father, the mother, or her agent specifically designated in writing shall, within thirty days after ~~the~~ the filing ~~the of such notice,~~ file a petition for an ~~adjudication of the claim of paternity and right to custody.~~ adjudication of the notice and a determination of whether the putative father's consent to the proposed adoption is required. The petition shall be filed in the county court in the county where such child was born or, if a separate juvenile court already has jurisdiction over ~~the~~ the custody of the child, in ~~the county court of the county in which such separate juvenile court is located.~~

(2) If such a petition is not filed within thirty days after ~~the~~ the filing ~~the of such notice and the mother of the child has executed a valid relinquishment and consent to the adoption within sixty days of the filing of such notice,~~ the ~~claimant-father's~~ putative father's consent to adoption of the child shall not be required, he is not entitled to any further notice ~~of the adoption proceedings,~~ and any alleged parental rights ~~of the claimant-father~~ and responsibilities of the putative father shall not be recognized thereafter in any court.

(3) After the timely filing of such petition, the court shall set a trial date upon proper notice to the parties not less than twenty nor more than thirty days after ~~the date of~~ the date of such filing. If the mother contests the putative father's claim of paternity, the court shall ~~take such testimony as shall enable it to determine the facts.~~ The claimant-father's rights and the custody of the child order DNA testing to establish whether the putative father is the biological father. The court shall assess the costs of such testing between the parties in an equitable manner. Whether the putative father's consent to the adoption is required shall be determined pursuant to section 43-104.22. The court shall appoint a guardian ad litem to represent the best interests of the child.

(4)(a) The county court of the county where the child was born or the separate juvenile court having jurisdiction over the custody of the child shall have jurisdiction over proceedings under this section from the date of notice provided under section 43-104.12 or the last date of published notice under section 43-104.14, whichever notice is earlier, until thirty days after the conclusion of adoption proceedings concerning the child, including appeals, unless such jurisdiction is transferred under subdivision (b) of this subsection.

(b) Except as otherwise provided in this subdivision, the court shall, upon the motion of any party, transfer the case to the district court for further proceedings on the matters of custody, visitation, and child support with respect to such child if (i) such court determines under section 43-104.22 that the consent of the putative father is required for adoption of the minor child and the putative father refuses such consent or (ii) the mother of the child, within thirty days after the conclusion of proceedings under this section, including appeals, has not executed a valid relinquishment and consent to the adoption. The court, upon its own motion, may retain the case for good cause shown.

Sec. 11. Section 43-104.08, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.08 Whenever a child is claimed to be born out of wedlock and the biological mother contacts an adoption agency or attorney to relinquish her rights to the child, or the biological mother joins in a petition for adoption to be filed by her husband, the agency or attorney contacted shall attempt to establish the identity of the biological father and further attempt to inform the biological father of his right to execute a relinquishment and consent to adoption, or a denial of paternity and waiver of rights, in the form mandated by section 43-106, pursuant to sections 43-104.08 to 43-104.24 and section 18 of this act.

Sec. 12. Section 43-104.09, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.09 In all cases of adoption of a minor child born out of wedlock, the biological mother shall complete and sign an affidavit in writing and under oath. The affidavit shall be executed by the biological mother before or at the time of execution of the consent or relinquishment and shall be attached as an exhibit to any petition to finalize the adoption.

If the biological mother is under the age of nineteen, the affidavit may be executed by the agency or attorney representing the biological mother based upon information provided by the biological mother. The affidavit shall be in substantially the following form:

AFFIDAVIT OF IDENTIFICATION

I, ....., the mother of a child, state under oath or affirm as follows:

(1) My child was born, or is expected to be born, on the ..... day of ....., at ....., in the State of .....

(2) I reside at ....., in the City or Village of ....., County of ....., State of .....

(3) I am of the age of ..... years, and my date of birth is .....

(4) I acknowledge that I have been asked to identify the father of my child.

(5) (CHOOSE ONE)

(5A) I know and am identifying the biological father (or possible biological fathers) as follows:

The name of the biological father is .....

His last-known home address is .....

His last-known work address is .....

He is ..... years of age, or he is deceased, having died on or about the ..... day of ....., at ....., in the State of .....

He has been adjudicated to be the biological father by the ..... Court of ..... county, State of ....., case name ....., docket number .....

(For other possible biological fathers, please use additional sheets of paper as needed.)

(5B) I am unwilling or unable to identify the biological father (or possible biological fathers). I do not wish or I am unable to name the biological father of the child for the following reasons:

..... Conception of my child occurred as a result of sexual assault or incest

..... Providing notice to the biological father of my child would threaten my safety or the safety of my child

..... Other reason: .....

(6) If the biological mother is unable to name the biological father, the physical description of the biological father (or possible biological fathers) and other information which may assist in identifying him, including the city or county and state where conception occurred:

.....  
.....  
.....

(use additional sheets of paper as needed).

(7) Under penalty of perjury, the undersigned certifies that the statements set forth in this affidavit are true and correct.

(8) I have read this affidavit and have had the opportunity to review and question it. It was explained to me by .....

I am signing it as my free and voluntary act and understand the contents and the effect of signing it.

Dated this ..... day of ....., .....

(Acknowledgment)

.....

(Signature)

Sec. 13. Section 43-104.12, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.12 In order to attempt to inform the biological father or possible biological fathers of the right to execute a relinquishment and consent to adoption or a denial of paternity and waiver of rights, the agency or attorney representing the biological mother shall notify, by registered or certified mail, restricted delivery, return receipt requested:

(1) Any person adjudicated by a court in this state or by a court in another state or territory of the United States to be the biological father of the child;

(2) Any person who has filed a paternity claim for notification purposes or a notice of intent to claim paternity and obtain custody Request for Notification of Intended Adoption or a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to sections 43-104.01 and 43-104.02;

(3) Any person who is recorded on the child's birth certificate as

the child's father;

(4) Any person who might be the biological father of the child who was openly living with the child's biological mother within the twelve months prior to the birth of the child;

(5) Any person who has been identified as the biological father or possible biological father of the child by the child's biological mother pursuant to section 43-104.09;

(6) Any person who was married to the child's biological mother within six months prior to the birth of the child and prior to the execution of the relinquishment; and

(7) Any other person who the agency or attorney representing the biological mother may have reason to believe may be the biological father of the child.

Sec. 14. Section 43-104.13, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.13 The notice sent by the agency or attorney pursuant to section 43-104.12 shall be served sufficiently in advance of the birth of the child, whenever possible, to allow compliance with subdivision (1) of section 43-104.02 and shall state:

(1) The biological mother's name, the fact that she is pregnant or has given birth to the child, and the expected or actual date of delivery;

(2) That the child has been relinquished by the biological mother, that she intends to execute a relinquishment, or that the biological mother has joined or plans to join in a petition for adoption to be filed by her husband;

(3) That the person being notified has been identified as a possible biological father of the child;

(4) That the possible biological father may have certain rights with respect to such child if he is in fact the biological father;

(5) That the possible biological father has the right to (a) deny paternity, (b) waive any parental rights he may have, (c) relinquish and consent to adoption of the child, ~~or~~ (d) file a notice of intent to claim paternity and obtain custody of the child Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02, or (e) object to the adoption in a proceeding before any Nebraska court which has, prior to his receipt of this notice, adjudicated him to be the biological father of the child;

(6) That to deny paternity, to waive his parental rights, or to relinquish and consent to the adoption, the biological father must contact the undersigned agency or attorney representing the biological mother, and that if he wishes to object to the adoption and seek custody of the child he should seek legal counsel from his own attorney immediately; and

(7) That if he is the biological father and if the child is not relinquished for adoption, he has a duty to contribute to the support and education of the child and to the pregnancy-related expenses of the mother and a right to seek visitation.

The agency or attorney representing the biological mother may enclose with the notice a document which is an admission or denial of paternity and a waiver of rights by the biological father, which the biological father may choose to complete, in the form mandated by section 43-106, and return to the agency or attorney.

Sec. 15. Section 43-104.14, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.14 (1) If the agency or attorney representing the biological mother is unable through reasonable efforts to locate and serve notice on the biological father or possible biological fathers as contemplated in sections 43-104.12 and 43-104.13, the agency or attorney shall notify the biological father or possible biological fathers by publication.

(2) The publication shall be made once a week for three consecutive weeks in a legal newspaper of general circulation in the Nebraska county or county of another state which is most likely to provide actual notice to the biological father. The publication shall include:

(a) The first name or initials of the father or possible father or the entry "John Doe, real name unknown", if applicable;

(b) A description of the father or possible father if his first name is or initials are unknown;

(c) The approximate date of conception of the child and the city and state in which conception occurred, if known;

(d) The date of birth or expected birth of the child;

(e) That he has been identified as the biological father or possible biological father of a child whom the biological mother currently intends to place for adoption and the approximate date that placement will occur;

(f) That he has the right to (i) deny paternity, (ii) waive any parental rights he may have, (iii) relinquish and consent to adoption of the child, (iv) file a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02, or (v) object to the adoption in a proceeding before any Nebraska court which has adjudicated him to be the biological father of the child prior to his receipt of notice; and ~~or (iv) file a notice of intent to claim paternity and obtain custody of the child within five business days of the birth of the child or within five business days of this notice, whichever is later, pursuant to section 43-104.02; and~~

(g) That (i) in order to deny paternity, waive his parental rights, relinquish and consent to the adoption, or receive additional information to determine whether he is the father of the child in question, he must contact the undersigned agency or attorney representing the biological mother and (ii) if he wishes to object to the adoption and seek custody of the child, he must seek legal counsel from his own attorney immediately.

Sec. 16. Section 43-104.17, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.17 In all cases of adoption of a minor child born out of wedlock, the petition to finalize the adoption shall specifically allege compliance with sections 43-104.08 to 43-104.16, and shall attach as exhibits all documents which are evidence of such compliance. No notice of the filing of the petition to finalize or the hearing on the petition shall be given to a biological father or possible putative biological father who (1) executed a valid relinquishment and consent or a valid denial of paternity and waiver of rights pursuant to section 43-104.11, ~~or~~ (2) was provided notice under sections 43-104.12 to 43-104.14 and failed to timely file an intent to claim paternity and obtain custody a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02 or petition pursuant to section 43-104.05, or (3) is not required to consent to the adoption pursuant to proceedings conducted under section 43-104.22.

Sec. 17. Section 43-104.22, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.22 At any hearing to determine a biological father's parental rights to the child, the court shall receive evidence with regard to the biological father's actual paternity of the child and whether he is a fit, proper, and suitable custodial parent for the child. The court shall the parental rights of an adjudicated biological father or putative biological father of a minor child born out of wedlock and whether such father's consent is required for the adoption of such child, the court shall receive evidence with regard to the actual paternity of the child and whether such father is a fit, proper, and suitable custodial parent for the child. The court shall determine that the biological such father's consent is not required for a valid adoption of the child upon a finding of one or more of the following:

(1) The father abandoned or neglected the child after having knowledge of the child's birth;

(2) The father is not a fit, proper, and suitable custodial parent for the child;

(3) The father had knowledge of the child's birth and failed to provide reasonable financial support for the mother or child;

(4) The father abandoned the mother without reasonable cause and with knowledge of the pregnancy;

(5) The father had knowledge of the pregnancy and failed to provide reasonable support for the mother during the pregnancy;

(6) The child was conceived as a result of a nonconsensual sex act or an incestual act;

(7) Notice was provided pursuant to sections 43-104.12 to 43-104.14 and the putative father failed to timely file an intent to claim paternity and obtain custody a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02;

(8) The putative father failed to timely file a petition to adjudicate his claim of paternity and right to custody a Notice of Objection to Adoption and Intent to Obtain Custody pursuant to as contemplated in section 43-104.05; ~~or~~

(9) Notice was provided to an adjudicated biological father through service of process under applicable state law and he failed to object to the adoption or failed to appear at the hearing conducted under section 18 of this act;

(10) The father executed a valid relinquishment or consent to adoption; or

(11) The man is not, in fact, the biological father of the child.

The court shall determine the custody of the child according to the best interest of the child, weighing the superior rights of a biological

parent who has been found to be a fit, proper, and suitable parent against any detriment the child would suffer if removed from the custody of persons with whom the child has developed a substantial relationship.

Sec. 18. With respect to any person who has been adjudicated by a Nebraska court of competent jurisdiction to be the biological father of a child born out of wedlock who is the subject of a proposed adoption:

(1) Such person shall not be construed to be a putative father for purposes of sections 43-104.01 to 43-104.05 and shall not be subject to the provisions of such sections as applied to such fathers; and

(2) (a) If the adjudicated biological father has been provided notice in substantial compliance with section 43-104.12 or section 43-104.14, whichever notice is earlier, and he has not executed a valid relinquishment or consent to the adoption, the mother or lawful custodian of the child or his or her agent shall file a motion in the court with jurisdiction of the custody of the child for a hearing to determine whether such father's consent to the adoption is required and whether the court shall give its consent to the adoption;

(b) Notice of the motion and hearing shall be served on the adjudicated biological father in the manner provided for service of process under applicable state law; and

(c) Within thirty days after service of notice under subdivision (b) of this subdivision, the court shall conduct an evidentiary hearing to determine whether the adjudicated biological father's consent to the adoption is required and whether the court shall give its consent to the adoption. Whether such father's consent is required for the proposed adoption shall be determined pursuant to section 43-104.22.

Sec. 19. Section 43-105, Reissue Revised Statutes of Nebraska, is amended to read:

43-105 (1) If consent is not required of both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, or the mother or mother and father of a child born out of wedlock, because of the provisions of subdivision ~~(3)~~ (1)(c) of section 43-104, substitute consents shall be filed as follows:

~~(1)~~ (a) Consent to the adoption of a minor child who has been committed to the Department of Health and Human Services may be given by the department or its duly authorized agent in accordance with section 43-906;

~~(2)~~ when (b) When a parent has relinquished a minor child for adoption to any child placement agency licensed or approved by the department or its duly authorized agent, consent to the adoption of such child may be given by such agency; and

~~(3)~~ in (c) In all other cases when consent cannot be given as provided in subdivision ~~(3)~~ (1)(c) of section 43-104, consent shall be given by the guardian or guardian ad litem of such minor child appointed by a court, which consent shall be authorized by the court having jurisdiction of such guardian or guardian ad litem.

(2) Substitute consent provisions of this section do not apply to a biological father whose consent is not required under section 43-104.22.

Sec. 20. Section 43-106, Reissue Revised Statutes of Nebraska, is amended to read:

43-106 Consents required to be given under sections 43-104 and 43-105, except under subdivision ~~(2)~~ (1)(b) of section 43-104, must be acknowledged before an officer authorized to acknowledge deeds in this state and signed in the presence of at least one witness, in addition to the officer. Consents under subdivision ~~(2)~~ (1)(b) of section 43-104 shall be shown by a duly certified copy of order of the court required to grant such consent.

Sec. 21. Section 43-906, Reissue Revised Statutes of Nebraska, is amended to read:

43-906 Except as otherwise provided in the Nebraska Indian Child Welfare Act, the Department of Health and Human Services, or its duly authorized agent, may consent to the adoption of children committed to it upon the order of a juvenile court if the parental rights of the parents or of the mother of a child born out of wedlock have been terminated and if no father of a child born out of wedlock has timely asserted his paternity rights under section 43-104.02, or upon the relinquishment to such department by their parents or the mother and, if required under sections 43-104.08 to 43-104.24 and section 18 of this act, the father of a child born out of wedlock. The parental rights of parents of a child born out of wedlock shall be determined pursuant to sections 43-104.05 and 43-104.08 to 43-104.24 and section 18 of this act.

Sec. 22. Section 43-1411, Reissue Revised Statutes of Nebraska, is amended to read:

43-1411 A civil proceeding to establish the paternity of a child may be instituted, in the court of the district where the child is domiciled or found or, for cases under the Uniform Interstate Family Support Act, where the alleged father is domiciled, by (1) the mother or the alleged father of such child, either during pregnancy or within four years after the child's birth, unless consent or relinquishment has been made pursuant to sections 43-104.08 to 43-104.24 or section 43-105 for purposes of adoption (a) a valid consent or relinquishment has been made pursuant to sections 43-104.08 to 43-104.24 and section 18 of this act or section 43-105 for purposes of adoption or (b) a county court or separate juvenile court has jurisdiction over the custody of the child or jurisdiction over an adoption matter with respect to such child pursuant to sections 43-101 to 43-116 or (2) the guardian or next friend of such child or the state, either during pregnancy or within eighteen years after the child's birth. Summons shall issue and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county.

Sec. 23. Section 71-101, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, sections 39 and 42 of this act, and the Physical Therapy Practice Act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board or professional board means one of the boards appointed by the State Board of Health pursuant to sections 71-111 and 71-112;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, means a person licensed under the Uniform Licensing Law;

(3) Profession or health profession means any of the several groups named in section 71-102;

(4) Department means the Department of Health and Human Services Regulation and Licensure;

(5) Whenever a particular gender is used, it is construed to include both the masculine and the feminine, and the singular number includes the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure means permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, means a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate means a document issued by the department which designates particular credentials for an individual;

(8) Lapse means the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so;

(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration; and

(10) Dependence means a compulsive or chronic need for or an active addiction to alcohol or any controlled substance or narcotic drug.

Sec. 24. Section 71-193.15, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.15 A (1) Except as otherwise provided in this section, a licensed dental hygienist shall perform the traditional dental hygiene functions set forth listed in section 71-193.17 only when authorized to do so by a licensed dentist who shall be responsible for the total oral health care of the patient.

(2) The Department of Health and Human Services Regulation and Licensure in the conduct of public health-related services department may authorize a licensed dental hygienist to conduct preliminary perform the following functions in the conduct of public health-related services in a public health setting or in a health care or related facility: Preliminary

charting and screening examinations; ~~7~~ provide oral health education, including workshops and inservice training sessions on dental health; and for patients including the teaching of appropriate plaque control techniques, and perform or provide all of the duties that any dental assistant is authorized to perform.

(3) (a) The department may authorize a licensed dental hygienist with three thousand hours of clinical experience in at least four of the preceding five calendar years to perform the following functions in the conduct of public health-related services in a public health setting or in a health care or related facility: Oral prophylaxis to healthy children who do not require antibiotic premedication; pulp vitality testing; and preventive measures, including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease.

(b) Authorization shall be granted by the department under this subsection upon (i) filing an application with the department, (ii) providing evidence of current licensure and professional liability insurance coverage, and (iii) providing evidence of clinical experience as required under subdivision (a) of this subsection. Authorization may be limited by the department as necessary to protect the public health and safety upon good cause shown and may be renewed in connection with renewal of the dental hygienist's license.

(c) A licensed dental hygienist performing dental hygiene functions as authorized under this subsection shall (i) report authorized functions performed by him or her to the department and (ii) advise the patient or recipient of services or his or her authorized representative that such services are preventive in nature and do not constitute a comprehensive dental diagnosis and care.

(4) For purposes of this section:

(a) Health care or related facility means a hospital, a nursing facility, an assisted-living facility, a correctional facility, a tribal clinic, or a school-based preventive health program; and

(b) Public health setting means a federal, state, or local public health department or clinic, community health center, rural health clinic, or other similar program or agency that serves primarily public health care program recipients.

Sec. 25. Section 71-193.17, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.17 When properly authorized by and under the general supervision of a licensed dentist, a licensed dental hygienist, under the general supervision of a licensed dentist, may perform the following intra and extra oral procedures and functions:

(1) Oral prophylaxis, periodontal scaling, and root planing which includes supragingival and subgingival debridement; Sealing of teeth, including subgingival regions and root planing with hand and ultrasonic instruments;

(2) Polish all exposed tooth surfaces, including with motor-driven and hand instruments in the oral prophylaxis procedure, including polishing amalgam restorations;

(3) Conduct and assess preliminary charting, probing, and screening examinations, and indexing of dental and periodontal disease, with referral, when appropriate, for a dental diagnosis by a licensed dentist;

(4) Brush biopsies;

(5) Pulp vitality testing;

~~(4)~~ Periodontal probing and charting;

~~(5)~~ (6) Gingival curettage;

~~(6)~~ Place and remove periodontal dressings;

(7) Remove Removal of sutures;

(8) Provide preventive Preventive measures, such as including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;

(9) Provide impressions Impressions for study casts;

(10) Apply Application of topical desensitizing and subgingival agents;

(11) Provide radiographic Radiographic exposures;

(12) Provide oral Oral health education, including conducting workshops and inservice training sessions on dental health; for patients including the teaching of appropriate plaque control techniques; and

(13) Application or administration of antimicrobial rinses, fluorides, and other anticariogenic agents; and

~~(13)~~ Perform or provide all (14) All of the duties that any dental assistant is authorized to perform.

Sec. 26. Section 71-1,147.35, Revised Statutes Cumulative

Supplement, 2006, is amended to read:

71-1,147.35 (1)(a) Prior to the dispensing or the delivery of a drug or device pursuant to a medical order to a patient or caregiver, a pharmacist shall in all care settings conduct a prospective drug utilization review. Such prospective drug utilization review shall involve monitoring the patient-specific medical history described in subdivision (b) of this subsection and available to the pharmacist at the practice site for:

- (i) Therapeutic duplication;
- (ii) Drug-disease contraindications;
- (iii) Drug-drug interactions;
- (iv) Incorrect drug dosage or duration of drug treatment;
- (v) Drug-allergy interactions; and
- (vi) Clinical abuse or misuse.

(b) A pharmacist conducting a prospective drug utilization review shall ensure that a reasonable effort is made to obtain from the patient, his or her caregiver, or his or her practitioner and to record and maintain records of the following information to facilitate such review:

- (i) The name, address, telephone number, date of birth, and gender of the patient;
- (ii) The patient's history of significant disease, known allergies, and drug reactions and a comprehensive list of relevant drugs and devices used by the patient; and
- (iii) Any comments of the pharmacist relevant to the patient's drug therapy.

(c) The assessment of data on drug use in any prospective drug utilization review shall be based on predetermined standards, approved by the department upon the recommendation of the board.

(2)(a) Prior to the dispensing or delivery of a drug or device pursuant to a prescription, the pharmacist shall ensure that a verbal offer to counsel the patient or caregiver is made. The counseling of the patient or caregiver by the pharmacist shall be on elements which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant for the patient. Such elements may include, but need not be limited to, the following:

- (i) The name and description of the prescribed drug or device;
- (ii) The route of administration, dosage form, dose, and duration of therapy;
- (iii) Special directions and precautions for preparation, administration, and use by the patient or caregiver;
- (iv) Common side effects, adverse effects or interactions, and therapeutic contraindications that may be encountered, including avoidance, and the action required if such effects, interactions, or contraindications occur;
- (v) Techniques for self-monitoring drug therapy;
- (vi) Proper storage;
- (vii) Prescription refill information; and
- (viii) Action to be taken in the event of a missed dose.

(b) The patient counseling provided for in this subsection shall be provided in person whenever practical or by the utilization of telephone service which is available at no cost to the patient or caregiver.

(c) Patient counseling shall be appropriate to the individual patient and shall be provided to the patient or caregiver.

(d) Written information may be provided to the patient or caregiver to supplement the patient counseling provided for in this subsection but shall not be used as a substitute for such patient counseling. ~~If written information is provided, it shall also include all information found on the prescription label.~~

(e) This subsection shall not be construed to require a pharmacist to provide patient counseling when:

- (i) The patient or caregiver refuses patient counseling;
- (ii) The pharmacist, in his or her professional judgment, determines that patient counseling may be detrimental to the patient's care or to the relationship between the patient and his or her practitioner;
- (iii) The patient is a patient or resident of a health care facility or health care service licensed under the Health Care Facility Licensure Act to whom prescription drugs or devices are administered by a licensed or certified staff member or consultant or a certified physician's assistant; or
- (iv) The practitioner authorized to prescribe drugs or devices specifies that there shall be no patient counseling unless he or she is contacted prior to such patient counseling. The prescribing practitioner shall specify such prohibition in an oral prescription or in writing on the face of a written prescription, including any prescription which is received by facsimile or electronic transmission. The pharmacist shall note "Contact

Before Counseling" on the face of the prescription if such is communicated orally by the prescribing practitioner.

Sec. 27. Section 71-1,186, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,186 For purposes of As used in sections 71-1,186 to 71-1,196 and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Board ~~shall mean~~ means the Board of Audiology and Speech-Language Pathology;

(2) Practice of audiology ~~shall mean means~~ the application of ~~principles, methods, and procedures for testing, measuring, and monitoring hearing, preparation of ear impressions and selection of hearing aids, aural rehabilitation, hearing conservation, vestibular testing of patients when vestibular testing is done as a result of a referral by a physician, and instruction related to hearing and disorders of hearing for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery,~~ evidence-based practice in clinical decisionmaking for the prevention, assessment, habilitation, rehabilitation, and maintenance of persons with hearing, auditory function, and vestibular function impairments and related impairments, including (a) cerumen removal from the cartilaginous outer one-third portion of the external auditory canal when the presence of cerumen may affect the accuracy of hearing evaluations or impressions of the ear canal for amplification devices and (b) evaluation, selection, fitting, and dispensing of hearing aids, external processors of implantable hearing aids, and assistive technology devices as part of a comprehensive audiological rehabilitation program. Practice of audiology does not include the practice of medical diagnosis, medical treatment, or surgery;

(3) Audiologist ~~shall mean~~ means an individual who practices audiology and who presents himself or herself to the public by any title or description of services incorporating the words audiologist, hearing clinician, hearing therapist, or any similar title or description of services;

(4) Practice of speech-language pathology ~~shall mean means~~ the application of principles, and methods, and procedures for the evaluation, monitoring, instruction, habilitation, ~~or rehabilitation related to associated with the development and disorders of human communication skills and with dysphagia, which principles and methods include screening, assessment, evaluation, treatment, prevention, consultation, and restorative modalities for speech, voice, or language, language-based learning, hearing, swallowing, or other upper aerodigestive functions for the purpose of improving quality of life by reducing impairments of body functions and structures, activity limitations, participation restrictions, and environmental barriers. Practice of speech-language pathology does not include the practice of medical diagnosis, medical treatment, or surgery;~~ for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery;

(5) Speech-language pathologist ~~shall mean~~ means an individual who presents himself or herself to the public by any title or description of services incorporating the words speech-language pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, language clinician, logopedist, communicologist, aphasiologist, aphasia therapist, voice pathologist, voice therapist, voice clinician, phoniatriest, or any similar title, term, or description of services; and

(6) ~~Communication assistant shall mean~~ Audiology or speech-language pathology assistant or any individual who presents himself or herself to the public by any title or description with the same duties means any person who, following specified training and receiving specified supervision, provides specified limited structured communication or swallowing services, which are developed and supervised by a licensed audiologist or licensed speech-language pathologist, in the areas in which the supervisor holds licenses; and ~~—~~

(7) Dysphagia means disorders of swallowing.

Sec. 28. Section 71-1,187, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,187 Nothing in the Uniform Licensing Law shall be construed to prevent or restrict:

(1) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person employed as a speech-language pathologist or audiologist by the federal government;

(2) A physician from engaging in the practice of medicine and surgery or any individual from carrying out any properly delegated

responsibilities within the normal practice of medicine and surgery under the supervision of a physician;

(3) A person licensed as a hearing aid fitter and dealer in this state from engaging in the fitting, selling, and servicing of hearing aids or performing such other duties as defined in sections 71-4701 to 71-4719;

(4) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person who holds a valid and current credential as a ~~speech or hearing specialist~~ speech-language pathologist or audiologist issued by the State Department of Education, if such person performs speech-language pathology or audiology services solely as a part of his or her duties within an agency, institution, or organization for which no fee is paid directly or indirectly by the recipient of such service and under the jurisdiction of the State Department of Education, but such person may elect to be within the jurisdiction of sections 71-1,186 to 71-1,196; ~~or~~

(5) The clinical practice in audiology or speech-language pathology required for students enrolled in an accredited college or university pursuing a major in audiology or speech-language pathology, if such clinical practices are supervised by a person licensed to practice audiology or speech-language pathology and if the student is designated by a title such as ~~trainee~~ student clinician or other title clearly indicating the training status; ~~or~~

(6) The utilization of a speech aide or other personnel employed by a public school, educational service unit, or other private or public educational institution working under the direct supervision of a credentialed speech-language pathologist.

Sec. 29. Section 71-1,195.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.01 (1) Upon application and payment of the registration fee, the department shall register to practice as a ~~communication assistant~~ an audiology or speech-language pathology assistant any person who:

(a) (i) Holds a bachelor's degree or its equivalent in communication disorders, (ii) holds an associate degree or its equivalent in communication disorders from an accredited training program, or (iii) between the period of June 1, 2005, and June 1, 2007, was registered as and practiced as a communication assistant for at least thirty hours per week for a minimum of nine months per year; ~~(a) Is a graduate of an accredited high school or its equivalent;~~

(b) Has successfully completed all required training pursuant to sections 71-1,195.04 and 71-1,195.05 and any inservice training required pursuant to section 71-1,195.09; and

(c) Has demonstrated ability to reliably maintain records and provide treatment under the supervision of a licensed audiologist or speech-language pathologist.

(2) Such registration shall be valid for one year from the date of issuance.

(3) The board shall, with the approval of the department, adopt and promulgate rules and regulations necessary to administer sections 71-1,195.01 to 71-1,195.09.

Sec. 30. Section 71-1,195.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.02 (1) The department, upon recommendation of the board, shall approve an application submitted by an audiologist or speech-language pathologist for supervision ~~for a communication assistant~~ of an audiology or speech-language pathology assistant when:

(a) The ~~communication assistant~~ audiology or speech-language pathology assistant meets the requirements for registration pursuant to section 71-1,195.01;

(b) The audiologist or speech-language pathologist has a valid Nebraska license; and

(c) The audiologist or speech-language pathologist practices in Nebraska.

(2) Any audiologist or speech-language pathologist seeking approval for supervision of a ~~communication assistant~~ an audiology or speech-language pathology assistant shall submit an application which is signed by the ~~communication assistant~~ audiology or speech-language pathology assistant and the audiologist or speech-language pathologist with whom he or she is associated. Such application shall (a) identify the settings within which the ~~communication assistant~~ audiology or speech-language pathology assistant is authorized to practice, and (b) describe the agreed-upon functions that the ~~communication assistant~~ audiology or speech-language pathology assistant may perform as provided in section 71-1,195.06, and (c) describe the provision for supervision by an alternate audiologist or speech-language pathologist when

necessary.

(3) If the supervision of a ~~communication assistant~~ an audiology or speech-language pathology assistant is terminated by the audiologist, speech-language pathologist, or ~~communication assistant,~~ audiology or speech-language pathology assistant, the audiologist or speech-language pathologist shall notify the department of such termination. An audiologist or speech-language pathologist who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise a ~~communication assistant~~ an audiology or speech-language pathology assistant from the department prior to the use of the ~~communication assistant~~ audiology or speech-language pathology assistant in the practice of audiology or speech-language pathology.

Sec. 31. Section 71-1,195.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.03 The department may deny, suspend, limit, revoke, or otherwise discipline the registration of a ~~communication assistant~~ an audiology or speech-language pathology assistant or the approval of a supervising audiologist or speech-language pathologist granted under sections 71-1,195.01 and 71-1,195.02 upon the grounds and in accordance with the Uniform Licensing Law for any violation of sections 71-1,195.01 to 71-1,195.09.

Sec. 32. Section 71-1,195.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.04 Initial training for ~~communication assistant~~ an audiology or speech-language pathology assistant shall consist of at least twelve hours and graduation from an accredited program with a focus on communication disorders which shall include:

- (1) An overview of speech, and language, and dysphagia and the practice of audiology and speech-language pathology;
- (2) Ethical and legal responsibilities;
- (3) Normal language, speech, and hearing functions and swallowing physiology;
- (4) Observing and recording patient progress;
- (5) Behavior management and modification; and
- (6) Record keeping.

Sec. 33. Section 71-1,195.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.05 In addition to the initial training required by section 71-1,195.04, any ~~communication assistant~~ an audiology or speech-language pathology assistant assigned to provide aural rehabilitation programs shall have additional training which shall include, but not be limited to:

- (1) Information concerning the nature of hearing loss;
- (2) Purposes and principles of auditory and visual training;
- (3) Maintenance and use of amplification devices; and
- (4) Such other subjects as the department may deem appropriate.

Sec. 34. Section 71-1,195.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.06 A ~~communication assistant~~ An audiology or speech-language pathology assistant may, under the supervision of a licensed audiologist or speech-language pathologist, perform the following duties and activities:

- (1) Implement programs and procedures designed by a licensed audiologist or speech-language pathologist; ~~which develop or refine receptive and expressive verbal and nonverbal communication skills;~~
- (2) Maintain records of implemented procedures which document a patient's responses to treatment;
- (3) Provide input for interdisciplinary treatment planning, inservice training, and other activities directed by a licensed audiologist or speech-language pathologist;
- (4) Prepare instructional material to facilitate program implementation as directed by a licensed audiologist or speech-language pathologist;
- (5) ~~Recommend speech, language, and hearing referrals for evaluation by a licensed audiologist or speech-language pathologist;~~ (6) Follow plans, developed by the licensed audiologist or speech-language pathologist, that provide specific sequences of treatment to individuals with communicative disorders or dysphagia; and

~~(7)~~ (6) Chart or log patient responses to the treatment plan.

Sec. 35. Section 71-1,195.07, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.07 A ~~communication assistant~~ An audiology or speech-language pathology assistant shall not:

- (1) Evaluate or diagnose any type of communication disorder;
- (2) Evaluate or diagnose any type of dysphagia;
- (3) Interpret evaluation results or treatment progress;
- ~~(3)~~ (4) Consult or counsel, independent of the licensed audiologist or speech-language pathologist, with a patient, a patient's family, or staff regarding the nature or degree of communication disorders or dysphagia;
- ~~(4)~~ (5) Plan patient treatment programs;
- ~~(5)~~ (6) Represent himself or herself as an audiologist or speech-language pathologist or as a provider of speech, language, swallowing, or hearing treatment or assessment services; ~~or~~
- ~~(6)~~ (7) Independently initiate, modify, or terminate any treatment program; or
- (8) Fit or dispense hearing aids.

Sec. 36. Section 71-1,195.08, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.08 (1) When supervising ~~the communication assistant,~~ an audiology or speech-language pathology assistant, the supervising audiologist or speech-language pathologist shall:

- (a) Provide supervision for no more than two audiology or speech-language pathology assistants at one time;
- (b) Provide direct onsite supervision for the first ~~treatment session,~~ two treatment sessions of each patient's care;
- ~~(b)~~ (c) Provide direct onsite supervision of at least twenty percent of all subsequent treatment sessions per quarter;
- ~~(e)~~ (d) Provide regular and frequent inservice training, at least ten hours of inservice training per registration period, either formal or informal, which is directly related to the particular services provided by the communication assistant, audiology or speech-language pathology assistant; and
- ~~(d)~~ (e) Prepare semiannual performance evaluations of the communication assistant, audiology or speech-language pathology assistant to be reviewed with the audiology or speech-language pathology assistant on a one-to-one basis.

(2) The supervising audiologist or speech-language pathologist shall be responsible for all aspects of patient treatment.

Sec. 37. Section 71-1,195.09, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.09 The supervising audiologist or speech-language pathologist shall provide ~~the communication assistant with an evaluation, supervision, and training, including at least ten hours each year of inservice training in areas related to the services provided by the communication assistant pursuant to section 71-1,195.08. Such training shall be verified by annual reports to the department verifying that evaluation, supervision, and training required by section 71-1,195.08 has been completed.~~ The audiologist or speech-language pathologist shall keep accurate records of such evaluation, supervision, and training.

Sec. 38. Section 71-1,296, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,296 For purposes of sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act, the definitions found in sections 71-1,297 to 71-1,311 and section 39 of this act shall be used.

Sec. 39. (1) Independent mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Independent mental health practice includes diagnosing major mental illness or disorder, using psychotherapy with individuals suspected of having major mental or emotional disorders, or using psychotherapy to treat the concomitants of organic illness, with or without consultation with a qualified physician or licensed psychologist.

(3) Independent mental health practice does not include the practice of psychology or medicine, prescribing drugs or electroconvulsive therapy, treating physical disease, injury, or deformity, or measuring personality or intelligence for the purpose of diagnosis or treatment planning.

Sec. 40. Section 71-1,307, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,307 (1) Mental health practice shall mean means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Mental health practice shall does not include:

- (a) The the practice of psychology or medicine;
- (b) Prescribing ~~prescribing~~ drugs or electroconvulsive therapy;
- (c) Treating ~~treating~~ physical disease, injury, or deformity;
- (d) Diagnosing ~~diagnosing~~ major mental illness or disorder except in consultation with a qualified physician or a psychologist licensed to engage in the practice of psychology as provided in section 71-1,206.14;
- (e) Measuring ~~measuring~~ personality or intelligence for the purpose of diagnosis or treatment planning;
- (f) Using ~~using~~ psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician or licensed psychologist; or
- (g) Using ~~or using~~ psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

(3) Mental health practice shall include includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

(4) Nothing in sections 71-1,306, 71-1,310, and 71-1,311 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act but not licensed under section 71-1,314 shall not engage in mental health practice.

Sec. 41. Section 71-1,308, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,308 (1) Mental health practitioner shall mean means a person who holds himself or herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services. Independent mental health practitioner means a person who holds himself or herself out as a person qualified to engage in independent mental health practice or a person who offers or renders independent mental health practice services.

(2) A person who is licensed as a mental health practitioner or an independent mental health practitioner and certified as a master social worker may use the title licensed clinical social worker. A person who is licensed as a mental health practitioner or an independent mental health practitioner and certified as a professional counselor may use the title licensed professional counselor. A person who is licensed as a mental health practitioner or an independent mental health practitioner and certified as a marriage and family therapist may use the title licensed marriage and family therapist. No person shall use the title licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist unless he or she is licensed and certified as provided in this section, subsection.

(3) A mental health practitioner shall not represent himself or herself as a physician or psychologist and shall not represent his or her services as being medical or psychological in nature. An independent mental health practitioner shall not represent himself or herself as a physician or psychologist.

Sec. 42. (1) No person shall hold himself or herself out as an independent mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed independent mental health practitioner if he or she:

(a) (i) (A) Graduated with a masters' or doctoral degree from an educational program which is accredited, at the time of graduation or within four years after graduation, by the Council for Accreditation of Counseling and Related Educational Programs, the Commission on Accreditation for Marriage and Family Therapy Education, or the Council on Social Work Education or (B) graduated with a masters' or doctoral degree from an educational program deemed by the board to be equivalent in didactic content and supervised clinical experience to an accredited program;

(ii) Is licensed as a provisional mental health practitioner or a licensed mental health practitioner; and

(iii) Has three thousand hours of experience obtained in a period of not less than two nor more than five years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category; or

(b) (i) Graduated from an educational program which does not meet the requirements of subdivision (a) (i) of this subsection;

(ii) Is licensed as a provisional mental health practitioner or a mental health practitioner; and

(iii) Has seven thousand hours of experience obtained in a period of not less than ten years and supervised by a licensed physician, a licensed

psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

(2) The experience required under this section shall be documented in a reasonable form and manner as prescribed by the board, which may consist of sworn statements from the applicant and his or her employers and supervisors. The board shall not in any case require the applicant to produce individual case records.

(3) The application for an independent mental health practitioner license shall include the applicant's social security number.

Sec. 43. Section 71-1,315, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,315 Each licensed mental health practitioner and each licensed independent mental health practitioner shall, in the period since his or her license was issued or last renewed, complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Sec. 44. Section 71-1,316, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,316 The department, upon the advice of the board, shall adopt and promulgate rules and regulations to administer sections 71-1,312 to 71-1,315 and section 42 of this act, including rules and regulations governing:

- (1) Ways of clearly identifying students, interns, and other persons providing mental health practice services under supervision;
- (2) The rights of persons receiving mental health practice services;
- (3) The rights of clients to gain access to their records, including the right of any client to receive one complete copy of his or her record free of charge;
- (4) The contents and methods of distribution of disclosure statements to clients of licensed mental health practitioners; and
- (5) Approval of examinations and educational programs.

Sec. 45. Section 71-1,333, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,333 (1) The department shall issue a certificate, signed by the director, to each person who is qualified to be a certified master social worker, certified social worker, certified professional counselor, or certified marriage and family therapist.

(2) The department shall issue a license, signed by the director, to each person who is qualified to be a licensed mental health practitioner or licensed independent mental health practitioner.

Sec. 46. Section 71-1,335, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,335 No person licensed or certified pursuant to sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act shall disclose any information he or she may have acquired from any person consulting him or her in his or her professional capacity except:

(1) With the written consent of the person or, in the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition. When more than one person in a family receives therapy conjointly, each such family member who is legally competent to execute a waiver shall agree to the waiver referred to in this subdivision. Without such a waiver from each family member legally competent to execute a waiver, a practitioner shall not disclose information received from any family member who received therapy conjointly;

(2) As such privilege is limited by the laws of the State of Nebraska or as the ~~Board of Mental Health Practice~~ board may determine by rule and regulation;

(3) When the person waives the privilege by bringing charges against the licensee; or

(4) When there is a duty to warn under the limited circumstances set forth in section 71-1,336.

Sec. 47. Section 71-1,336, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,336 (1) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is licensed or certified pursuant to sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the mental health practitioner a serious threat of physical violence against

himself, herself, or a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the mental health practitioner if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise under section 71-1,335 against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

Sec. 48. Section 71-1,337, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,337 The Board of Mental Health Practice shall adopt a code of ethics which is essentially in agreement with the current code of ethics of the national and state associations of the specialty professions included in mental health practice and which the board deems necessary to assure adequate protection of the public in the provision of mental health services to the public. A violation of the code of ethics shall be considered an act of unprofessional conduct.

The board shall ensure through the code of ethics and the rules and regulations adopted and promulgated under sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act that persons licensed or certified pursuant to sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

Intentional failure by a mental health practitioner to report known acts of unprofessional conduct by a mental health practitioner to the department or the board shall be considered an act of unprofessional conduct and shall be grounds for disciplinary action under appropriate sections of the Uniform Licensing Law unless the mental health practitioner has acquired such knowledge in a professional relationship otherwise protected by confidentiality.

Sec. 49. Section 71-1,338, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,338 Any person who violates any provision of the Uniform Licensing Law related to mental health practice shall be guilty of a Class III misdemeanor, and any such violation by a person licensed or certified pursuant to sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act shall be cause for disciplinary action as provided in sections 71-147 to 71-161.18.

Sec. 50. Section 71-1913.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1913.01 (1) Each program shall require the parent or guardian of each child enrolled in such program to present within thirty days after enrollment and periodically thereafter (a) proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and haemophilus influenzae type B, and invasive pneumococcal disease and such other diseases as the Department of Health and Human Services Regulation and Licensure may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, an advanced practice registered nurse practicing under and in accordance with his or her respective certification act, or a physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.

(2) Each program shall keep the written record of immunization, the certification, or the written statement of the parent or guardian. Such record, certification, or statement shall be kept by the program as part of the child's file, shall be available onsite to the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure, and shall be filed with the Department of Health and Human Services for review and inspection. Each program shall report to the Department of Health and Human Services by November 1 of each year the status of immunization for children enrolled as of September 30 of that year, and children who have reached kindergarten age and who are enrolled in public or private school need not be included in the report.

Sec. 51. Section 71-2421, Reissue Revised Statutes of Nebraska, is amended to read:

71-2421 (1) To protect the public safety, dispensed drugs or devices may be returned to the dispensing pharmacy only under the following conditions:

(a) For immediate destruction by a pharmacist, except that drugs and devices dispensed to residents of a long-term care facility shall be destroyed on the site of the long-term care facility;

(b) In response to a recall by the manufacturer, packager, or distributor;

(c) If a device is defective or malfunctioning; or

(d) Return from a long-term care facility for credit, except that:

(i) No controlled substance may be returned;

(ii) The decision to accept the return of the dispensed drug or device shall rest solely with the pharmacist;

(iii) The dispensed drug or device shall have been in the control of the long-term care facility at all times;

(iv) The dispensed drug or device shall be in the original and unopened labeled container with a tamper-evident seal intact, as dispensed by the pharmacy. Such container shall bear the expiration date or calculated expiration date and lot number; and

(v) Tablets or capsules shall have been dispensed in a unit dose with a tamper-evident container which is impermeable to moisture and approved by the Board of Pharmacy.

(2) Returned dispensed drugs or devices shall not be retained in inventory nor made available for subsequent dispensing, except as provided in subdivision (1)(d) of this section.

(3) For purposes of this section:

(a) Calculated expiration date means an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging; and

(b) Dispense, drugs, and devices are defined in section 71-1,142; and -

(c) Long-term care facility does not include an assisted-living facility as defined in section 71-406.

Sec. 52. Section 71-4702, Reissue Revised Statutes of Nebraska, is amended to read:

71-4702 (1) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting and sale or dispensing of hearing aids unless he or she holds an unsuspended, unrevoked license issued by the department as provided in sections 71-4701 to 71-4719. The license shall be conspicuously posted in his or her office or place of business. A license shall confer upon the holder the right to select, fit, and sell hearing aids.

(2) A licensed audiologist who maintains a practice pursuant to licensure as an audiologist in which hearing aids are regularly dispensed or who intends to maintain such a practice shall also be licensed pursuant to subsection (4) of section 71-4707.

~~(2)~~ (3) Nothing in such sections 71-4701 to 71-4719 shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license if it employs only properly licensed natural persons in the direct sale and fitting of such products. Such corporation, partnership, limited liability company, trust, association, or like organization shall file annually with the board a list of all licensed hearing aid instrument dispensers and fitters directly or indirectly employed by it. Such corporation, partnership, limited liability company, trust, association, or like organization shall also file with the board a statement on a form approved by the board that it submits itself to the rules and regulations of the department and the provisions of such sections which the department deems applicable.

~~(3)~~ (4) Nothing in such sections shall prohibit the holder of a license from the fitting and sale of wearable instruments or devices designed for or offered for the purpose of conservation or protection of hearing.

Sec. 53. Section 71-4707, Reissue Revised Statutes of Nebraska, is amended to read:

71-4707 (1) Any person may obtain a license by successfully passing a qualifying examination if the applicant:

(a) Is at least twenty-one years of age;

- (b) Is of good moral character;
- (c) Has an education equivalent to a four-year course in an accredited high school; and
- (d) Is free of contagious or infectious disease.

(2) Each applicant for license by examination shall appear at a time and place and before such persons as the department may designate to be examined by means of written and practical tests in order to demonstrate that he or she is qualified to practice the fitting and sale of hearing aids. The examination shall not be conducted in such a manner that college training is required in order to pass. Nothing in this examination shall imply that the applicant is required to possess the degree of medical competence normally expected of physicians.

(3) The department shall give examinations as determined by the board, except that a minimum of two examinations shall be offered each calendar year.

(4) The department shall issue a license without examination to a licensed audiologist who maintains a practice pursuant to licensure as an audiologist in which hearing aids are regularly dispensed or who intends to maintain such a practice upon application to the department, proof of licensure, and payment of a twenty-five-dollar fee.

Sec. 54. Section 71-5403, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5403 (1) A pharmacist may drug product select except when:

(a) A practitioner designates that drug product selection is not permitted by specifying on the face of the prescription or by telephonic, facsimile, or electronic transmission that there shall be no drug product selection. For written prescriptions, the practitioner shall specify in his or her own handwriting on the prescription the phrase "no drug product selection", "dispense as written", "brand medically necessary", or "no generic substitution" or the notation "N.D.P.S.", "D.A.W.", or "B.M.N." or words or notations of similar import to indicate that drug product selection is not permitted. The pharmacist shall note "N.D.P.S.", "D.A.W.", "B.M.N.", "no drug product selection", "dispense as written", "brand medically necessary", "no generic substitution", or words or notations of similar import ~~or "No Drug Product Selection"~~ on the face of the prescription to indicate that drug product selection is not permitted if such is communicated orally by the prescribing practitioner; or

(b) A patient or designated representative or caregiver of such patient instructs otherwise.

(2) A pharmacist shall not drug product select a drug product unless:

(a) The drug product, if it is in solid dosage form, has been marked with an identification code or monogram directly on the dosage unit;

(b) The drug product has been labeled with an expiration date;

(c) The manufacturer, distributor, or packager of the drug product provides reasonable services, as determined by the board, to accept the return of drug products that have reached their expiration date; and

(d) The manufacturer, distributor, or packager maintains procedures for the recall of unsafe or defective drug products.

Sec. 55. Section 71-7438, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7438 Manufacturer means any entity engaged in manufacturing, preparing, propagating, ~~compounding~~, processing, packaging, repackaging, or labeling a prescription drug.

Sec. 56. Section 71-8402, Reissue Revised Statutes of Nebraska, is amended to read:

71-8402 For purposes of sections 71-8401 to 71-8407:

(1) Medical records means a provider's record of a patient's health history and treatment rendered;

(2) Mental health medical records means medical records or parts thereof created by or under the direction or supervision of a licensed psychiatrist, a licensed psychologist, or a mental health practitioner licensed or certified pursuant to sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act;

(3) Patient includes a patient or former patient;

(4) Patient request or request of a patient includes the request of a patient's guardian or other authorized representative; and

(5) Provider means a physician, psychologist, chiropractor, dentist, hospital, clinic, and any other licensed or certified health care practitioner or entity.

Sec. 57. Section 81-651, Reissue Revised Statutes of Nebraska, is amended to read:

81-651 (1) The Department of Health and Human Services may provide visiting community nursing services or home health services to persons living in the state and may charge fees for such services. The department shall not be exempt from licensure as a home health agency under the Health Care Facility Licensure Act.

(2) The department may organize, license, and operate home health agencies to assist in providing services under subsection (1) of this section.

(3) The department (a) may employ necessary personnel, including, but not limited to, licensed nurses, physical therapists, physical therapy assistants, audiologists, speech-language pathologists, ~~communication assistants,~~ audiology or speech-language pathology assistants, occupational therapists, occupational therapy assistants, home health aides, homemakers, respiratory care practitioners, nutritionists, social workers, and supervisory personnel, and may purchase equipment and materials necessary to maintain an effective program or (b) may contract with individuals or licensed agencies to obtain such services or to assist in providing services under subsection (1) of this section.

(4) The department may contract with any public, private, for-profit, or nonprofit agency or individual to provide home health services through any licensed home health agency created under subsection (2) of this section.

Sec. 58. Section 71-101, Revised Statutes Cumulative Supplement, 2006, as amended by section 296, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 481, One Hundredth Legislature, First Session, 2007, and section 23, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-101~~ Sections 1 to 139 of this act, ~~section 4 of this act,~~ ~~sections 39 and 42 of this act,~~ ~~sections 31 to 38 of this act,~~ the ~~Perfusion Practice Act,~~ and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

- (1) The Advanced Practice Registered Nurse Practice Act;
- (2) The Alcohol and Drug Counseling Practice Act;
- (3) The Athletic Training Practice Act;
- (4) The Audiology and Speech-Language Pathology Practice Act;
- (5) The Certified Nurse Midwifery Practice Act;
- (6) The Certified Registered Nurse Anesthetist Practice Act;
- (7) The Chiropractic Practice Act;
- (8) The Clinical Nurse Specialist Practice Act;
- (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- (10) The Dentistry Practice Act;
- (11) The Emergency Medical Services Practice Act;
- (12) The Environmental Health Specialists Practice Act;
- (13) The Funeral Directing and Embalming Practice Act;
- (14) The Hearing Aid Instrument Dispensers and Fitters Practice Act;
- (15) The Licensed Practical Nurse-Certified Practice Act;
- (16) The Massage Therapy Practice Act;
- (17) The Medical Nutrition Therapy Practice Act;
- (18) The Medical Radiography Practice Act;
- (19) The Medicine and Surgery Practice Act;
- (20) The Mental Health Practice Act;
- (21) The Nurse Practice Act;
- (22) The Nurse Practitioner Practice Act;
- (23) The Nursing Home Administrator Practice Act;
- (24) The Occupational Therapy Practice Act;
- (25) The Optometry Practice Act;
- (26) The Perfusion Practice Act;
- ~~(26)~~ (27) The Pharmacy Practice Act;
- ~~(27)~~ (28) The Physical Therapy Practice Act;
- ~~(28)~~ (29) The Podiatry Practice Act;
- ~~(29)~~ (30) The Psychology Practice Act;
- ~~(30)~~ (31) The Respiratory Care Practice Act;
- ~~(31)~~ (32) The Veterinary Medicine and Surgery Practice Act; and
- ~~(32)~~ (33) The Water Well Standards and Contractors' Practice Act.

If there is any conflict between any provision of sections 1 to 139 of this act and any provision of a practice act, the provision of the practice act shall prevail.

The Revisor of Statutes shall assign the Uniform Credentialing Act, including the practice acts enumerated in subdivisions (1) through ~~(31)~~ (32)

of this section, to consecutive articles within Chapter 38.

Sec. 59. Section 71-102, Revised Statutes Cumulative Supplement, 2006, as amended by section 297, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, section 21, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 2, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-102~~ (1) No individual shall engage in the practice of perfusion or the following practices unless such individual has obtained a credential under the Uniform Credentialing Act:

- (a) Acupuncture;
- (b) Advanced practice nursing;
- (c) Alcohol and drug counseling;
- (d) Asbestos abatement, inspection, project design, and training;
- (e) Athletic training;
- (f) Audiology;
- (g) Speech-language pathology;
- (h) Body art;
- (i) Chiropractic;
- (j) Cosmetology;
- (k) Dentistry;
- (l) Dental hygiene;
- (m) Electrology;
- (n) Emergency medical services;
- (o) Esthetics;
- (p) Funeral directing and embalming;
- (q) Hearing aid instrument dispensing and fitting;
- (r) Lead-based paint abatement, inspection, project design, and training;
- (s) Licensed practical nurse-certified;
- (t) Massage therapy;
- (u) Medical nutrition therapy;
- (v) Medical radiography;
- (w) Medicine and surgery;
- (x) Mental health practice;
- (y) Nail technology;
- (z) Nursing;
- (aa) Nursing home administration;
- (bb) Occupational therapy;
- (cc) Optometry;
- (dd) Osteopathy;
- (ee) Perfusion;
- ~~(ee)~~ (ff) Pharmacy;
- ~~(ff)~~ (gg) Physical therapy;
- ~~(gg)~~ (hh) Podiatry;
- ~~(hh)~~ (ii) Psychology;
- ~~(ii)~~ (jj) Radon detection, measurement, and mitigation;
- ~~(jj)~~ (kk) Respiratory care;
- ~~(kk)~~ (ll) Veterinary medicine and surgery;
- ~~(ll)~~ (mm) Public water system operation; and
- ~~(mm)~~ (nn) Constructing or decommissioning water wells and installing water well pumps and pumping equipment.

(2) No individual shall hold himself or herself out as any of the following until such individual has obtained a credential under the Uniform Credentialing Act for that purpose:

- (a) Registered environmental health specialist;
- (b) Certified marriage and family therapist;
- (c) Certified professional counselor; or
- (d) Social worker.

(3) No business shall operate for the provision of any of the following services unless such business has obtained a credential under the Uniform Credentialing Act:

- (a) Body art;
- (b) Cosmetology;
- (c) Emergency medical services;
- (d) Esthetics;
- (e) Funeral directing and embalming;
- (f) Massage therapy; or
- (g) Nail technology.

Sec. 60. Section 71-104.01, Revised Statutes Cumulative Supplement, 2006, as amended by section 31, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 2, Legislative Bill 481, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-104.01~~ (1) An applicant for an initial license to practice a profession which is authorized to prescribe controlled substances shall be subject to a criminal background check. Except as provided in subsection (3) of this section, the applicant shall submit with the application a full set of fingerprints which shall be forwarded to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for a national criminal history record information check. The applicant shall authorize release of the results of the national criminal history record information check to the department. The applicant shall pay the actual cost of the fingerprinting and criminal background check.

(2) This section shall not apply to a dentist who is an applicant for a dental locum tenens under section 455 of this act or to a physician or osteopathic physician who is an applicant for a physician locum tenens under section 694 of this act.

(3) An applicant for a temporary educational permit as defined in section ~~71-1,107.01~~ 677 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007, shall have ninety days from the issuance of the permit to comply with subsection (1) of this section and shall have his or her permit suspended after such ninety-day period if the criminal background check is not complete or revoked if the criminal background check reveals that the applicant was not qualified for the permit.

Sec. 61. Section 125, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 125. (1) Every credential holder, except pharmacist interns and pharmacy technicians, shall, within thirty days of an occurrence described in this subsection, report to the department in such manner and form as the department may require whenever he or she:

(a) Has first-hand knowledge of facts giving him or her reason to believe that any person in his or her profession:

(i) Has acted with gross incompetence or gross negligence;

(ii) Has engaged in a pattern of incompetent or negligent conduct as defined in section 77 of this act;

(iii) Has engaged in unprofessional conduct as defined in section 79 of this act;

(iv) Has been practicing while his or her ability to practice is impaired by alcohol, controlled substances, mind-altering substances, or physical, mental, or emotional disability; or

(v) Has otherwise violated the regulatory provisions governing the practice of the profession;

(b) Has first-hand knowledge of facts giving him or her reason to believe that any person in another profession:

(i) Has acted with gross incompetence or gross negligence; or

(ii) Has been practicing while his or her ability to practice is impaired by alcohol, controlled substances, mind-altering substances, or physical, mental, or emotional disability; or

(c) Has been the subject of any of the following actions:

(i) Loss of privileges in a hospital or other health care facility due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment or the voluntary limitation of privileges or resignation from the staff of any health care facility when that occurred while under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of clinical competence, unprofessional conduct, or physical, mental, or chemical impairment;

(ii) Loss of employment due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(iii) An adverse judgment, settlement, or award arising out of a professional liability claim, including a settlement made prior to suit in which the consumer releases any professional liability claim against the credentialed person, or adverse action by an insurance company affecting professional liability coverage. The department may define what constitutes a settlement that would be reportable when a credential holder refunds or reduces a fee or makes no charge for reasons related to a consumer complaint other than costs;

(iv) Denial of a credential or other form of authorization to practice by any jurisdiction due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(v) Disciplinary action against any credential or other form of permit he or she holds taken by any jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such credential or other form of permit;

(vi) Loss of membership in, or discipline of a credential related to the applicable profession by, a professional organization due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment; or

(vii) Conviction of any misdemeanor or felony in this or any other jurisdiction.

(2) The requirement to file a report under subdivision (1) (a) or (b) of this section shall not apply:

(a) To the spouse of the credential holder;

(b) To a practitioner who is providing treatment to such credential holder in a practitioner-consumer relationship concerning information obtained or discovered in the course of treatment unless the treating practitioner determines that the condition of the credential holder may be of a nature which constitutes a danger to the public health and safety by the credential holder's continued practice; or

(c) When a credential holder who is chemically impaired enters the Licensee Assistance Program authorized by section 75 of this act except as otherwise provided in such section.

(3) A report submitted by a professional liability insurance company on behalf of a credential holder within the thirty-day period prescribed in subsection (1) of this section shall be sufficient to satisfy the credential holder's reporting requirement under subsection (1) of this section.

Sec. 62. Section 71-1,200, Reissue Revised Statutes of Nebraska, as amended by section 130, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 1, Legislative Bill 152, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-1,200~~ Any insurer shall report to the department, on a form and in the manner specified by the department by rule and regulation, any facts known to the insurer, including, but not limited to, the identity of the credential holder and consumer, when the insurer:

(1) Has reasonable grounds to believe that a person required to be credentialed has committed a violation of the provisions of the Uniform Credentialing Act governing the profession of such person whether or not such person is credentialed;

(2) Has made payment due to an adverse judgment, settlement, or award resulting from a professional liability claim against the insurer, a health care facility or health care service as defined in the Health Care Facility Licensure Act, or a person required to be credentialed whether or not such person is credentialed, including settlements made prior to suit in which the consumer releases any professional liability claim against the ~~credentialed person, in which the patient releases any professional liability claim against the insurer, health care facility or health care service, or practitioner, person required to be credentialed,~~ arising out of the acts or omissions of such person;

(3) Takes an adverse action affecting the coverage provided by the insurer to a person required to be credentialed, whether or not such person is credentialed, due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment. For purposes of this section, adverse action does not include raising rates for professional liability coverage unless it is based upon grounds that would be reportable and no prior report has been made to the department; or

(4) Has been requested by the department to provide information.

Sec. 63. Section 187, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 187. Sections 187 to 212 of this act and section 66 of this act shall be known and may be cited as the Audiology and Speech-Language Pathology Practice Act.

Sec. 64. Section 71-1,186, Reissue Revised Statutes of Nebraska, as amended by section 27, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 188, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-1,186~~ For purposes of the Audiology and Speech-Language Pathology Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 189 to 194 of this act and section 66 of this act apply.

Sec. 65. Section 191, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 191. ~~Communication assistant~~ Audiology or speech-language pathology assistant or any individual who presents himself or herself to the public by any title or description with the same duties means any person who, following specified training and receiving specified supervision, provides specified limited structured communication or swallowing services, which are

developed and supervised by a licensed audiologist or licensed speech-language pathologist, in the areas in which the supervisor holds licenses.

Sec. 66. Dysphagia means disorders of swallowing.

Sec. 67. Section 192, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 192. Practice of audiology means the application of ~~principles, methods, and procedures for testing, measuring, and monitoring hearing, preparation of ear impressions and selection of hearing aids, aural rehabilitation, hearing conservation, vestibular testing of patients when vestibular testing is done as a result of a referral by a physician, and instruction related to hearing and disorders of hearing for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery.~~ evidence-based practice in clinical decisionmaking for the prevention, assessment, habilitation, rehabilitation, and maintenance of persons with hearing, auditory function, and vestibular function impairments and related impairments, including (1) cerumen removal from the cartilaginous outer one-third portion of the external auditory canal when the presence of cerumen may affect the accuracy of hearing evaluations or impressions of the ear canal for amplification devices and (2) evaluation, selection, fitting, and dispensing of hearing aids, external processors of implantable hearing aids, and assistive technology devices as part of a comprehensive audiological rehabilitation program. Practice of audiology does not include the practice of medical diagnosis, medical treatment, or surgery.

Sec. 68. Section 193, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 193. Practice of speech-language pathology means the application of ~~principles, and methods, associated with and procedures for the evaluation, monitoring, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, or language for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but does not include the practice of medical diagnosis, medical treatment, or surgery.~~ human communication skills and with dysphagia, which principles and methods include screening, assessment, evaluation, treatment, prevention, consultation, and restorative modalities for speech, voice, language, language-based learning, hearing, swallowing, or other upper aerodigestive functions for the purpose of improving quality of life by reducing impairments of body functions and structures, activity limitations, participation restrictions, and environmental barriers. Practice of speech-language pathology does not include the practice of medical diagnosis, medical treatment, or surgery.

Sec. 69. Section 71-1,195.09, Reissue Revised Statutes of Nebraska, as amended by section 37, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 211, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-1,195.09~~ The supervising audiologist or speech-language pathologist shall provide annual reports to the department verifying that evaluation, supervision, and training required by section ~~71-1,195.08~~ 210 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007, has been completed. The audiologist or speech-language pathologist shall keep accurate records of such evaluation, supervision, and training.

Sec. 70. Section 71-4702, Reissue Revised Statutes of Nebraska, as amended by section 52, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 573, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-4702~~ (1) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting and sale or dispensing of hearing aids unless he or she holds an unsuspended, unrevoked license issued by the department as provided in the Hearing Aid Instrument Dispensers and Fitters Practice Act. A license shall confer upon the holder the right to select, fit, and sell hearing aids.

(2) A licensed audiologist who maintains a practice pursuant to licensure as an audiologist in which hearing aids are regularly dispensed or who intends to maintain such a practice shall also be licensed pursuant to subsection (4) of section ~~71-4707.~~ 576 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007, as amended by section 71 of this legislative bill.

(3) Nothing in the act shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license if it

employs only properly licensed natural persons in the direct sale and fitting of such products.

(4) Nothing in the act shall prohibit the holder of a license from the fitting and sale of wearable instruments or devices designed for or offered for the purpose of conservation or protection of hearing.

Sec. 71. Section 71-4707, Reissue Revised Statutes of Nebraska, as amended by section 576, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-4707~~ (1) Any person may obtain a license under the Hearing Aid Instrument Dispensers and Fitters Practice Act by successfully passing a qualifying examination if the applicant:

(a) Is at least twenty-one years of age; and

(b) Has an education equivalent to a four-year course in an accredited high school.

(2) The qualifying examination shall consist of written and practical tests. The examination shall not be conducted in such a manner that college training is required in order to pass. Nothing in this examination shall imply that the applicant is required to possess the degree of medical competence normally expected of physicians.

(3) The department shall give examinations approved by the board. A minimum of two examinations shall be offered each calendar year.

(4) The department shall issue a license without examination to a licensed audiologist who maintains a practice pursuant to licensure as an audiologist in which hearing aids are regularly dispensed or who intends to maintain such a practice upon application to the department, proof of licensure, and payment of a twenty-five-dollar fee.

Sec. 72. Section 720, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 720. Sections 720 to 756 of this act and sections 39 and 42 of this act shall be known and may be cited as the Mental Health Practice Act.

Sec. 73. Section 71-1,135.02, Reissue Revised Statutes of Nebraska, as amended by section 23, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, section 341, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, and section 885, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-1,135.02~~ (1) An optometrist licensed in this state may use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision ~~(2)~~ (1)(b) of section ~~71-1,133~~ 877 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007, if such person ~~submits to the department the required fee and is certified by the department, with the recommendation of the Board of Optometry,~~ board, as qualified to use topical ocular pharmaceutical agents for diagnostic purposes.

(2) Such certification shall require (a) satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the board and passage of an examination approved by the board or (b) evidence provided by the optometrist of certification in another state for use of diagnostic pharmaceutical agents which is deemed by the board as satisfactory validation of such qualifications.

~~(2) An optometrist licensed in this state may use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (2) or (3) of section 71-1,133 if such person submits to the department the required fee and is certified by the department, with the recommendation of the Board of Optometry, as qualified to use ocular pharmaceutical agents for therapeutic purposes, including the treatment of glaucoma. Such certification shall require (a) satisfactory completion of classroom education and clinical training which emphasizes the examination, diagnosis, and treatment of the eye, ocular adnexa, and visual system offered by a school or college approved by the board and passage of an examination approved by the board or (b) evidence provided by the optometrist of certification in another state for the use of therapeutic pharmaceutical agents which is deemed by the board as satisfactory validation of such qualifications.~~

~~(3) After January 1, 2000, only an optometrist licensed in this state prior to April 30, 1987, may practice optometry without meeting the requirements and obtaining certification required by subsections (1) and (2) of this section.~~

Sec. 74. Section 886, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 886. (1) ~~No~~ An optometrist licensed in this state ~~on or after April 30, 1987,~~ shall may use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision ~~(1)(e)~~ (1)(b) or (c) of

section 877 of this act ~~unless if such person (a) submits to the department evidence of is certified by the department, with the recommendation of the board, as qualified to use ocular pharmaceutical agents for therapeutic purposes, including the treatment of glaucoma.~~

(2) Such certification shall require (a) satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on which emphasizes the examination, diagnosis, and treatment of the eye, ocular adnexa, and visual system offered by a school or college approved by the board, (b) passes and passage of an examination approved by the board, (c) has been certified by the department, with the recommendation of the board, to use topical ocular pharmaceutical agents for therapeutic purposes, and (d) has been certified by the department, with the recommendation of the board, to use topical ocular pharmaceutical agents for diagnostic purposes, or (b) evidence provided by the optometrist of certification in another state for the use of therapeutic pharmaceutical agents which is deemed by the board as satisfactory validation of such qualifications.

~~(2) The board may approve for certification pursuant to subdivision (1)(a) of this section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:~~

- ~~(a) Review of general pharmacology and therapeutics;~~
- ~~(b) Review of ocular therapeutic pharmacology;~~
- ~~(c) Diagnosis and treatment of diseases of the eye, ocular adnexa, and visual system;~~
- ~~(d) Diagnosis of corneal disease and trauma including corneal foreign bodies;~~
- ~~(e) Diagnosis and treatment of anterior segment eye diseases;~~
- ~~(f) Clinical procedures related to the diagnosis and treatment of the eye, ocular adnexa, and visual system;~~
- ~~(g) Ocular manifestations of systemic disease;~~
- ~~(h) Review of systemic disease syndromes;~~
- ~~(i) Ocular therapy including management of acute systemic emergencies; and~~
- ~~(j) Consultation criteria in ocular disease and trauma.~~

Sec. 75. Section 887, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 887. ~~(1) An optometrist who is licensed and certified to use pharmaceutical agents for therapeutic purposes on July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as approved by the board, prior to January 1, 2000, and shall complete such educational requirements prior to treating glaucoma. Failure to complete such education prior to January 1, 2000, shall result in the revocation of the licensee's certification to use pharmaceutical agents for therapeutic purposes.~~

~~(2) An optometrist who applies for licensure on or after July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as approved by the board, prior to being issued a license to practice optometry.~~

~~(3) An optometrist who graduated from an accredited school of optometry after January 1, 1996, shall be deemed to have met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma.~~

After January 1, 2000, only an optometrist licensed in this state prior to April 30, 1987, may practice optometry without meeting the requirements and obtaining certification required by sections 73 and 74 of this act.

Sec. 76. Section 8, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 8. Sections 8 to 19 of this act and section 78 of this act shall be known and may be cited as the Perfusion Practice Act.

Sec. 77. Section 12, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 12. To be eligible to be licensed as a perfusionist, an applicant shall fulfill the following requirements:

- ~~(1) Submit a complete application to the department as required under the Uniform Licensing Law;~~

~~(2) Pay the fee established and collected as provided in sections 71-162 to 71-162.05;~~

~~(3) (1) Submit evidence of successful completion of a perfusion education program with standards established by the Accreditation Committee for Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs or a program with substantially equivalent education standards approved by the board; and~~

~~(4) (2) Submit evidence of successful completion of the certification examinations offered by the American Board of Cardiovascular Perfusion, or its successor, or a substantially equivalent examination approved by the board.~~

Sec. 78. The department shall establish and collect fees for initial licensure and renewal under the Perfusion Practice Act as provided in sections 51 to 57 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007.

Sec. 79. Section 897, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 897. Sections 897 to 993 of this act and sections 31 to 38 of Legislative Bill 236, One Hundredth Legislature, First Session, 2007, shall be known and may be cited as the Pharmacy Practice Act.

Sec. 80. Section 932, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 932. Pharmacy technician means an individual at least eighteen years of age who is a high school graduate or officially recognized by the State Department of Education as possessing the equivalent degree of education, who has never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy, may perform those functions which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy. registered under sections 31 to 38 of Legislative Bill 236, One Hundredth Legislature, First Session, 2007.

Sec. 81. Section 71-1,147, Reissue Revised Statutes of Nebraska, as amended by section 30, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, and section 963, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, is amended to read:

~~71-1,147~~ (1) Except as provided for pharmacy technicians in ~~section 986 of this act~~ sections 31 to 38 of this act and for individuals authorized to dispense under a delegated dispensing permit, no person other than a licensed pharmacist, a pharmacist intern, or a practitioner with a pharmacy license shall provide pharmaceutical care, compound and dispense drugs or devices, or dispense pursuant to a medical order. Notwithstanding any other provision of law to the contrary, a pharmacist or pharmacist intern may dispense drugs or devices pursuant to a medical order of a practitioner authorized to prescribe in another state if such practitioner could be authorized to prescribe such drugs or devices in this state.

(2) Except as provided for pharmacy technicians in ~~section 986 of this act~~ sections 31 to 38 of this act and for individuals authorized to dispense under a delegated dispensing permit, it shall be unlawful for any person to permit or direct a person who is not a pharmacist intern, a licensed pharmacist, or a practitioner with a pharmacy license to provide pharmaceutical care, compound and dispense drugs or devices, or dispense pursuant to a medical order.

(3) It shall be unlawful for any person to coerce or attempt to coerce a pharmacist to enter into a delegated dispensing agreement or to supervise any pharmacy technician for any purpose or in any manner contrary to the professional judgment of the pharmacist. Violation of this subsection by a health care professional regulated pursuant to the Uniform Credentialing Act shall be considered an act of unprofessional conduct. A violation of this subsection by a facility shall be prima facie evidence in an action against the license of the facility pursuant to the Health Care Facility Licensure Act. Any pharmacist subjected to coercion or attempted coercion pursuant to this subsection has a cause of action against the person and may recover his or her damages and reasonable attorney's fees.

(4) Violation of this section by an unlicensed person shall be a Class III misdemeanor.

Sec. 82. Section 32, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 32. (1) A pharmacy technician shall only perform tasks which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy.

(2) The functions and tasks which shall not be performed by pharmacy technicians include, but are not limited to:

- (a) Receiving oral medical orders from a practitioner or his or her agent;
- (b) Providing patient counseling;
- (c) Performing any evaluation or necessary clarification of a medical order or performing any functions other than strictly clerical functions involving a medical order;
- (d) Supervising or verifying the tasks and functions of pharmacy technicians;
- (e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section ~~71-1,147.35~~, 965 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007;
- (f) Releasing any confidential information maintained by the pharmacy;
- (g) Performing any professional consultations; and
- (h) Drug product selection, with regard to an individual medical order, in accordance with the Nebraska Drug Product Selection Act.

(3) The director shall, with the recommendation of the board, waive any of the limitations in subsection (2) of this section for purposes of a scientific study of the role of pharmacy technicians approved by the board. Such study shall be based upon providing improved patient care or enhanced pharmaceutical care. Any such waiver shall state the length of the study and shall require that all study data and results be made available to the board upon the completion of the study. Nothing in this subsection requires the board to approve any study proposed under this subsection.

Sec. 83. Section 35, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 35. (1) A registration to practice as a pharmacy technician may be denied, refused renewal, removed, or suspended or have other disciplinary measures taken against it by the department, with the recommendation of the board, for failure to meet the requirements of or for violation of sections 31 to 38 of this act or the rules and regulations adopted under such sections.

(2) If the department proposes to deny, refuse renewal of, or remove or suspend a registration, it shall send the applicant or registrant a notice setting forth the action to be taken and the reasons for the determination. The denial, refusal to renew, removal, or suspension shall become final thirty days after mailing the notice unless the applicant or registrant gives written notice to the department of his or her desire for an informal conference or for a formal hearing.

(3) Notice may be served by any method specified in section 25-505.01, or the department may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods specified in section 25-505.01.

(4) Pharmacy technicians may participate in the Licensee Assistance Program described in section ~~71-172.01~~, 75 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007.

Sec. 84. Section 36, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 36. (1) If a pharmacy technician performs functions requiring professional judgment and licensure as a pharmacist, performs functions not specified under approved written control procedures and guidelines, or performs functions without supervision and such acts are known to the pharmacist supervising the pharmacy technician or the pharmacist in charge or are of such a nature that they should have been known to a reasonable person, such acts may be considered acts of unprofessional conduct on the part of the pharmacist supervising the pharmacy technician or the pharmacist in charge pursuant to section ~~71-147~~, 78 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and disciplinary measures may be taken against such pharmacist supervising the pharmacy technician or the pharmacist in charge pursuant to the ~~Uniform Licensing Law~~, Credentialing Act.

(2) Acts described in subsection (1) of this section may be grounds for the department, with the recommendation of the board, to apply to the district court in the judicial district in which the pharmacy is located for an order to cease and desist from the performance of any unauthorized acts. On or at any time after such application the court may, in its discretion, issue an order restraining such pharmacy or its agents or employees from the performance of unauthorized acts. After a hearing the court shall either grant or deny the application. Such order shall continue until the court, after a hearing, finds the basis for such order has been removed.

Sec. 85. Section 42, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, is amended to read:

Sec. 42. Sections 39 to 41 of this act do not apply to the performance of health maintenance activities by designated care aides pursuant

to section ~~71-1,132.30~~ 775 of Legislative Bill 463, One Hundredth Legislature, First Session, 2007, or to persons who provide personal assistant services, respite care or habilitation services, or aged and disabled services.

Sec. 86. (1) Notwithstanding section 44-3,131, (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for short-term major medical policies of six months or less duration and policies that provide coverage for a specified disease or other limited-benefit coverage, and (b) any self-funded employee benefit plan to the extent not preempted by federal law shall include screening coverage for a colorectal cancer examination and laboratory tests for cancer for any nonsymptomatic person fifty years of age and older covered under such policy, certificate, contract, or plan. Such screening coverage shall include a maximum of one screening fecal occult blood test annually and a flexible sigmoidoscopy every five years, a colonoscopy every ten years, or a barium enema every five to ten years, or any combination, or the most reliable, medically recognized screening test available. The screenings selected shall be as deemed appropriate by a health care provider and the patient.

(2) This section does not prevent application of deductible or copayment provisions contained in the policy, certificate, contract, or employee benefit plan or require that such coverage be extended to any other procedures.

Sec. 87. The Revisor of Statutes shall assign section 18 of this act within sections 43-101 to 43-116.

Sec. 88. Sections 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 90, and 91 of this act become operative on December 1, 2008. The other sections of this act become operative on their effective date.

Sec. 89. Original sections 43-102, 43-104, 43-104.01, 43-104.02, 43-104.03, 43-104.04, 43-104.05, 43-104.08, 43-104.09, 43-104.12, 43-104.13, 43-104.14, 43-104.17, 43-104.22, 43-105, 43-106, 43-906, 43-1411, 71-193.15, 71-193.17, 71-1,186, 71-1,187, 71-1,195.01, 71-1,195.02, 71-1,195.03, 71-1,195.04, 71-1,195.05, 71-1,195.06, 71-1,195.07, 71-1,195.08, 71-1,195.09, 71-1,296, 71-1,307, 71-1,308, 71-1,315, 71-1,316, 71-1,333, 71-1,335, 71-1,336, 71-1,337, 71-1,338, 71-2421, 71-4702, 71-4707, 71-8402, and 81-651, Reissue Revised Statutes of Nebraska, and sections 28-401, 28-405, 28-412, 71-101, 71-1,147.35, 71-1913.01, 71-5403, and 71-7438, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 90. Original section 71-1,135.02, Reissue Revised Statutes of Nebraska, as amended by section 23, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, section 341, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, and section 885, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,147, Reissue Revised Statutes of Nebraska, as amended by section 30, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, and section 963, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,186, Reissue Revised Statutes of Nebraska, as amended by section 27, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 188, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,195.09, Reissue Revised Statutes of Nebraska, as amended by section 37, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 211, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-1,200, Reissue Revised Statutes of Nebraska, as amended by section 130, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 1, Legislative Bill 152, One Hundredth Legislature, First Session, 2007; section 71-4702, Reissue Revised Statutes of Nebraska, as amended by section 52, Legislative Bill 247, One Hundredth Legislature, First Session, 2007, and section 573, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-4707, Reissue Revised Statutes of Nebraska, as amended by section 576, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; section 71-101, Revised Statutes Cumulative Supplement, 2006, as amended by section 296, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, section 1, Legislative Bill 481, One Hundredth Legislature, First Session, 2007, and section 23, Legislative Bill 247, One Hundredth Legislature, First Session, 2007; section 71-102, Revised Statutes Cumulative Supplement, 2006, as amended by section 297, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, section 21, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 2, Legislative

Bill 236, One Hundredth Legislature, First Session, 2007; section 71-104.01, Revised Statutes Cumulative Supplement, 2006, as amended by section 31, Legislative Bill 463, One Hundredth Legislature, First Session, 2007, and section 2, Legislative Bill 481, One Hundredth Legislature, First Session, 2007; sections 125, 187, 191, 192, 193, 720, 886, 887, 897, and 932, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; and sections 8, 12, 32, 35, 36, and 42, Legislative Bill 236, One Hundredth Legislature, First Session, 2007, are repealed.

Sec. 91. The following sections are outright repealed: Sections 71-1,135.03, 71-1,135.05, and 71-1,147.34, Reissue Revised Statutes of Nebraska, as amended by sections 888, 873, and 987, respectively, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; sections 71-1,195.03, 71-1,315, 71-1,316, 71-1,333, and 71-1,338, Reissue Revised Statutes of Nebraska, as amended by sections 31, 43, 44, 45, and 49, respectively, Legislative Bill 247, One Hundredth Legislature, First Session, 2007; section 71-1,147.33, Revised Statutes Cumulative Supplement, 2006, as amended by section 349, Legislative Bill 296, One Hundredth Legislature, First Session, 2007, and section 986, Legislative Bill 463, One Hundredth Legislature, First Session, 2007; and section 15, Legislative Bill 236, One Hundredth Legislature, First Session, 2007.

Sec. 92. The following sections are outright repealed: Sections 71-1,186.01 and 71-1,192, Reissue Revised Statutes of Nebraska, and section 71-1,190.01, Reissue Revised Statutes of Nebraska, as amended by section 356, Legislative Bill 296, One Hundredth Legislature, First Session, 2007.

Sec. 93. Since an emergency exists, this act takes effect when passed and approved according to law.